

## **Definition of terms used**

For the purpose of this report we will refer to ourselves as we, our, or West Lothian Council.

Where we refer to 'our records' we mean the records that we hold.

### **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.**

#### **1894- 1930**

##### **Parish Council**

In 1894 the parochial boards were replaced by more democratically elected parish councils. Parish councils were in turn abolished in 1930 under the Local Government (Scotland) Act 1929, with powers being transferred to county councils in landward areas of counties and burgh councils where they were within a burgh.

#### **c1138 – 1975**

##### **Royal Burgh of Linlithgow (Linlithgow Town Council)**

1975 – Its powers were assumed by Lothian Regional Council and West Lothian District Council. Social Work and Education were regional council functions. These in turn were replaced by West Lothian Council in 1996 under the Local Government etc. (Scotland) Act 1994 (c. 39). West Lothian Council became responsible for Social Work and Education functions.

#### **1901 - 1975**

##### **Armadale Town Council**

1975 - Its powers were assumed by Lothian Regional Council and West Lothian District Council. Social Work and Education were regional council functions. These in turn were replaced by West Lothian Council in 1996 under the Local Government etc. (Scotland) Act 1994 (c. 39). West Lothian Council became responsible for Social Work and Education functions.

#### **1901 – 1975**

##### **Bathgate Town Centre**

1975 - Its powers were assumed by Lothian Regional Council and West Lothian District Council. Social Work and Education were regional council functions. These in turn were replaced by West Lothian Council in 1996 under the Local Government etc. (Scotland) Act 1994 (c. 39). West Lothian Council became responsible for Social Work and Education functions.

**1930 – 1975****East Calder District Council  
(Midlothian County Council)**

1975 - Its powers were assumed by Lothian Regional Council and West Lothian District Council. Social Work and Education were regional council functions. These in turn were replaced by West Lothian Council in 1996 under the Local Government etc. (Scotland) Act 1994 (c. 39). West Lothian Council became responsible for Social Work and Education functions.

**1930 – 1975****Linlithgow District Council  
(Midlothian County Council)**

1975 - Its area and functions were transferred to West Lothian District Council and Lothian Regional Council. Social Work and Education were regional council functions.

**1930 – 1975****Torphichen and Bathgate District Council  
(West Lothian County Council)**

1975 - Torphichen and Bathgate District Council area and functions were transferred to West Lothian District Council and Lothian Regional Council. Social Work and Education were regional council functions.

**1930 – 1975****West Calder District Council  
(West Lothian County Council)**

1975 - West Calder was part of Midlothian County Council area until 1975 when it was transferred to West Lothian District Council and Lothian Regional Council. Social Work and Education were regional council functions.

**1930 – 1975****Whitburn and Livingston District Council**

1975 - Whitburn and Livingston District Council area and functions were transferred to West Lothian District Council and Lothian Regional Council. Social Work and Education were regional council functions.

**1901 – 1975****Whitburn Town Council**

1975 - Its powers were assumed by Lothian Regional Council and West Lothian District Council. Social Work and Education were regional council functions. These in turn were replaced by West Lothian Council in 1996 under the Local Government etc. (Scotland) Act 1994 (c. 39).

**1890 – 1975****West Lothian County Council  
(Linlithgowshire County Council)**

1975 - Its powers were assumed by Lothian Regional Council and West Lothian District Council. Social Work and Education were regional council functions. These in turn were replaced by West Lothian Council in 1996 under the Local Government

etc. (Scotland) Act 1994 (c. 39). West Lothian Council became responsible for Social Work and Education functions.

#### **1962 – 1996**

##### **Livingston Development Corporation**

The Corporation was, in short, responsible for the planning, construction, and continuing development of Livingston. It had no responsibility for Social Work or Education functions.

#### **1975 – 1996**

##### **Lothian Regional Council**

The Lothian region was split into four areas: East, Mid and West Lothian and the City of Edinburgh, which later became the unitary authorities. Social work and Education were regional council functions.

#### **1996 (May) – Present**

##### **West Lothian Council**

West Lothian Council was formed in 1996 (it had a shadow year from 1995-1996). It took over the functions of West Lothian District Council, Lothian Regional Council and the functions previously administered by the Livingston Development Corporation.

**All subsequent references to “local authority” mean the local authority and its statutory predecessors.**

**All references to “Foster Care” include boarding out with private families.**

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

In 1908, The Children’s Act 1908, also known as ‘Children and Young Persons Act’ was part of the Children’s Charter and Government legislation which established juvenile courts and introduced the registration of foster parents. Local Authorities were granted powers to keep ‘poor children out of poorhouse/workhouse and protect them from abuse’.

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

The involvement of the local authority in the provision of foster care has changed and developed over time due to a stronger need to assess carers, hence the introduction of various legislation and regulations. Social change has seen a move from institutional residential care to family care. With more children in care being looked after in foster care then this has required more regulation and development of local policies and procedures to protect the welfare of children in local authority care.

## **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?**

As per the Local Government (Scotland) Act 1929, our primary source of funding was via the General Exchequer Contributions paid from Central Government. Section 14, Schemes for Administration makes references to the provision for children, no specific reference is made to boarding out and/or foster care provision. Our records make no specific reference to the funding source for foster care.

The 1929 Act was replaced by the Local Government etc. (Scotland) Act 1994 then the Local Government & Ratings Act 1997 introduced, which determined funding. Currently funding is provided via the block grant from Central Government. This makes up approx. 85% of our funding with the other 15% coming from local taxation.

With the exception of some specific ring- fenced funding, we are responsible for the management of our budget including the allocation of funds for the provision of foster care. All of our foster placements are currently funded directly by West Lothian Council.

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

#### **1930 – 1959**

There is no information held in our records that indicates that West Lothian County Council provided funding to any other organisation for the provision of foster care during this period.

#### **1960 - 1979**

We have located a Barnardo's record for one of our children in 1969. The record does not include any information about the funding of this foster care placement. Lothian Region Council Committee minutes in 1979 refer to Barnardo's Family Placement Project, namely foster care. There is no context and there is no specific mention of funding and/or the purchasing of placements.

#### **1980 -1989**

Our records refer to the Barnardo's Family Placement Project and we located Child in Care Reviews for placements with Barnardo's foster carers. The records do not include any specific information about the funding/purchasing of these of these foster care placements.

#### **1990 – Onward**

Funding for out of authority placements is provided if assessed as appropriate. Examples include where there is a shortage of foster carers in the Local Authority area; if a child has required specific care; or there are additional physical, social,

emotional or behavioural needs which could not be met by local authority approved foster carers.

- 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?**

**1930 – 1959**

There is no indication in our records that funding was provided to other organisations to provide foster care during this period.

**1960 -1969**

Our records only have information in relation to one placement being made with Barnardo's in 1969. Our records indicate that this placement was in respect of a child with additional support needs.

**1970 -1979**

Lothian Regional Council Committee minutes from 1979 refer to Barnardo's Family Placement Project. There is no specific mention of the funding and/or purchasing of placements or any criteria for accessing this provision.

**1980 -1989**

Our records refer to the Barnardo's Family Placement Project but there is no reference to funding or criteria.

**1990 – Onward**

Funding for out of authority placements is provided if assessed as appropriate. Examples include where there is a shortage of foster carers in the Local Authority area; if a child has required specific care; or there are additional physical, social, emotional or behavioural needs which could not be met by local authority approved foster carers.

- 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)?**

**1930 – 1959**

Records in West Lothian County's Public Assurance Committee Minutes indicate that we did oversee/administer all state assistance during this period, with records including the cost of boarding out allowances. Our records do not indicate how foster carers were made aware of the state support available or how they accessed it during this period.

**1960 – 1979**

Our records do not make any reference to financial state support available to foster carers during this period.

**1980 -1989**

Our records do not make any reference to financial state support available to foster carers during this period.

**1990 – Onward**

Information about where to get advice on tax issues and benefits was included in our Carer Handbook from 1996 onwards and all of our foster carers have an allocated supervising social worker who can provide support as required.

Foster carers are able to apply for a variety of state benefits, including Disability Living Allowance/Personal Independence Payment (for themselves or children residing with them, including children in placement). With regard to children placed with them they are able to apply as the child's appointee. These benefits are not means-tested and are tax free. Foster carers are able to apply for Carers Allowance if they provide care to anyone in their household who receives the middle or higher rate of the DLA Care Component.

Foster carers are not able to claim Child Benefit for any children placed with them. They can claim child benefit for their own children or any other child not residing with them (that are not fostered). Fostered children are not counted as part of the household when any means-tested benefits are calculated.

Fostering allowances and fees are not counted as income when calculating any of the following means-tested benefits: Income Support, income-based Jobseeker's Allowance, income-based Employment and Support Allowance, Housing Benefit, Council Tax Support and Universal Credit.

**e) To what extent was financial support from the local authority available to foster carers?****1930 – 1959**

Our records include information about boarding out fees (historic language) for children dependent on their age. Reference is made to the Committee buying Christmas gifts for boarded out children during this period.

**1960 -1979**

Our records include information about boarding out fees for children dependent on their age. Reference is made to the payment of birthday and Christmas allowances during this period.

Our records from 1975 show discussion of recommendations made by the Convention of Scottish Local Authorities about acceptable rates of fostering allowances to be adopted when each local authority's financial circumstances permitted. The records indicate that the recommended rates were accepted and we implemented a 25% increase in rates in July 1976, with the full recommended rates implemented in April 1977. Our records mention that additional payments were made to those caring for children with complex learning disabilities and / or physical disabilities.

**1980 - 1989**

Our records indicate that fostering payments were made to foster carers during this period. In addition to this a clothing allowance was paid, and some evidence of payments for telephone calls and mileage was found in our records. Holiday, birthday and Christmas allowances were paid. Our records contain information of payments for specialist holiday camps (including school trips and church camps). We consider that these would have been discretionary payments based on an individual child's needs.

**1990 -1999**

Our records show that fostering payments comprised of a fostering fee and fostering allowance. The fostering allowance is for the child; and covers clothing, pocket money, and maintenance (food etc.). This allowance is paid for each child, dependent on the child's age. The fostering fee is paid to the foster carer for recognition of their work for each child in placement. Additional payments were made for holidays, Christmas and for the child's birthday.

Evidence of additional payments were seen in our records and include short breaks, paid on a pro rata basis for the days that a child is with a foster carer, and a retainer fee for a period of up to 28 days when a placement is agreed to allow for introduction visits. During the 1990's and 2000's, there is evidence that we made enhanced payments to provide for children with additional support needs.

**2000 – Onward**

Age related fostering payments continue to be paid to foster carers. Foster carers' fees were initially based on three levels of skill and training achieved in line with the baseline rates set by COSLA. In 2006 additional funding to enable strategies for new carers reduced the time a carer spent at level 1 before being considered for level 2. This system for fees is no longer in place. There is clear evidence that the local authority provided additional financial supports such as mileage reimbursement for duties incurred through the role as a foster carer, and for specific equipment that may have been required. There is evidence of allowances being provided for clothing, Christmas, birthdays and additional items. We have evidence of specific time limited additional payments being made for placements, for example for children who have complex needs.

- 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?**

**1930 -1959**

Our records do not contain any information on the funding source for boarding out fees and any additional funding provided for children who were boarded out during this period. Information from West Lothian County Council Children's Committee; Finance Committee; Public Assistance Committee minutes indicate that the provision of boarding out fees/funds was discretionary.

The records indicate that the parents of children who were boarded out were expected to pay a contribution and that this was dependent on their income/circumstances. West Lothian County Borough Council obtained Contribution

Orders from the Sheriff Court to ensure parents contributed to the maintenance of their children.

### **1960 -1979**

Our records from this period indicate that there was an expectation that birth parents would contribute to the maintenance of their children if they were in the care of West Lothian County Council / Lothian Regional Council and were capable of doing so.

### **1980 -1989**

Our records do not include any information that indicates the funding source for children who were placed in foster care.

### **1990 – Onward**

Local authority funding is from central government and local taxation. All foster placements are funded via Lothian Regional Council / West Lothian Council and fostering allowances and fees are paid to all eligible carers.

Some foster payments are discretionary, for example we can make an additional payment for a single placement if that is what is assessed as being in a child's best interests.

### **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?**

### **1930 -1959**

Our records do not indicate how foster carers were made aware of the financial support available during this period. Our records do indicate that boarded out children were discussed at relevant committees of the time with funding agreed. The Children's Officer would refer any child boarded out or requiring to be boarded out to the West Lothian County Council Children's Committee for consideration.

### **1960 – 1979**

Our records do not contain any information about how foster carers were made aware of available financial support during this period. Our records refer to an advert for foster carers but it is unknown what information this advert contained.

### **1980-1989**

Our records do not contain any information about how foster carers were made aware of available financial support during this period. Records refer to the Foster Carer Association and a Foster Carer Committee but there is no specific information about the function and purpose of these groups so we are unable to confirm if funding was discussed.

### **1990 – Onward**

In 1996 a Carer Handbook was developed that included a section on finance. Information covered allowances, fees, discretionary payments, expenses, tax and benefits. Potential foster carers are advised of all fostering fees and allowances during recruitment, information and training sessions. Supervising social workers are responsible for ensuring that fees and allowances are paid, and for the



purchasing and/or payment for necessary equipment associated with their fostering role. Foster carers are provided with updated fostering fee and allowances information leaflet in March every year and funding is discussed at their annual review.

Our approved foster carers are provided with membership of the Fostering Network and are able to access advice and support through them, including information about fostering fees, allowances, and self-employment/taxation. In addition to this the Fostering Carer Association and Foster Carer Support Groups discuss fees and allowances. In more recent times our recruitment campaigns have made references to fees and allowances for the fostering task. Information is available on the Council's website.

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

**1930 -1959**

We have not located any information in our records to indicate how foster carers were made aware of other financial support available.

**1960 -1979**

We have not located any information in our records to indicate how foster carers were made aware of other financial support available.

**1980 -1989**

We have not located any information in our records to indicate how foster carers were made aware of other financial support available.

**1990 – Onward**

We have paid for approved foster carers to have membership of the Fostering Network since 1996 and continue to do so today.

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

**1930 -1959**

Our records do not provide sufficient detail to allow us to comment on this.

**1960 -1979**

Our records indicate that the recommended fostering allowances set by the Convention of Scottish Local Authorities (COSLA) in 1975 were fully implemented in West Lothian in April 1977 and that we recognised the additional responsibilities and where required paid more to those caring for children with additional support needs.

**1980 -1989**

Our records do not indicate any change in the position from the previous decade.

**1990 – Onward**

In addition to the position in previous decades and in recognition of the difficulty of the fostering task we paid a discretionary enhanced rate for children felt to require additional support. In 2013 foster carer payments were aligned with the Scottish

average of the time and annual inflationary increases added to the Council's budgeting processes. Allowances are considered to meet the individual needs of the child.

**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.**

West Lothian Council reviews its fostering fees and allowances annually and this is provided to all approved foster carers in March/April each year and discussed at the carer's annual review.

**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 is evidence of legislative frameworks and guidance followed between 1930 to present day including:

**1930 – 1959**

The Children and Young People Act 1937 and the Children Act 1948 were the two main pieces legislation that underpinned West Lothian County Council's responsibility for the provision of foster care for children during this period.

**1960 -1979**

The Social Work (Scotland) Act 1968 and the Children Act 1975 were the two main pieces of legislation that underpinned West Lothian County Council's responsibility for the provision of foster care for children during this period.

**1980 – Onward**

Legislation included The Social Work (Scotland) Act 1968; The Children Act 1975; The Foster Children (Scotland) Act; and the Boarding out & Fostering Children (Scotland) Regs 1985 as well as;

- The Children and Young People Act, 1937
- The Children Act 1948 (which established the Children's committees)

- The Social Work (Scotland) Act, 1968
- Local Government (Scotland) Act 1973
- The Children Act 1975
- Local Government (Scotland) Act 1994
- The Children (Scotland) Act 1995
- The Regulations of Care (Scotland) Act 2001
- National Care Standards (Foster Carer and Family Placement Services) 2002 (Revised 2005).
- The Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009
- Children's Hearing (Scotland) Act 2011
- Children and Young People (Scotland) Act 2014
- Carers (Scotland) Act 2016
- Limitation (Childhood Abuse) (Scotland) Act 2017 asp 3 (Scottish Act)

**b) Did that legal basis require the local 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 Act 1948 placed a legal duty of care on West Lothian County Council with regards to all children who required care if they were without parents or whose parents were unable to care for them for any reason.

In addition to the requirements of the legislation West Lothian Council were required to meet the requirements of (dates where provisions were in force in brackets):

- i. Social Work (Scotland) Act 1968 (Transitional Cases) Order 1971/493, Pt II art. 5(1)(b)
- ii. Access (Notice of Termination and of Refusal) (Forms) (Scotland) Order 1983, (30 January 1984 to 31 March 1997)
- iii. Boarding-out and Fostering of Children (Scotland) Regulations 1985 (1 April 1986 to 31 March 1997)
- iv. Social Work (Representations Procedure) (Scotland) Order 1990 (1 April 1991 to present)
- v. Arrangements to Look After Children (Scotland) Regulations 1996 (1 April 1997 to 27 September 2009)
- vi. Children (Reciprocal Enforcement of Prescribed Orders etc. (England and Wales and Northern Ireland)) (Scotland) Regulations 1996 (1 April 1997 to present)
- vii. Emergency Child Protection Measures (Scotland) Regulations 1996 (1 April 1997 to 23 June 2013)
- viii. Fostering of Children (Scotland) Regulations 1996 (1 April 1997 to 27 September 2009)
- ix. Refuges for Children (Scotland) Regulations 1996 (1 April 1997 to present)
- x. Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 (1 April 2004 to present)
- xi. Community Care (Joint Working etc.) (Scotland) Regulations 2002/533
- xii. Adoption Agencies (Scotland) Regulations 2009 (28 September 2009 to present)

- xiii. Looked After Children (Scotland) Regulations 2009 (28 September 2008 to present)
- xiv. Children's Hearings (Scotland) Act 2011 (Child Protection Emergency Measures) Regulations 2012 (24 June 2013 to present)
- xv. Children's Hearings (Scotland) Act 2011 (Compulsory Supervision Orders etc.: Further Provision) Regulations 2013 (24 June 2013 to present)
- xvi. Children's Hearings (Scotland) Act 2011 (Movement Restriction Conditions) Regulations 2013 (24 June 2013 to present)
- xvii. Children's Hearings (Scotland) Act 2011 (Transfer of Children to Scotland - Effect of Orders made in England and Wales or Northern Ireland) Regulations 2013 (24 June 2013 to present)

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

As stated previously the Children Act 1948 placed a legal duty of care on West Lothian County Council with regards to all children who required care if they were without parents or whose parents were unable to care for them for any reason.

**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

**(ii) Foster Carers**

**Past**

**a) Did Foster Carers have a special legal, statutory or other status?**

Since 28 September 2008 a 'foster carer' has been someone approved as such in accordance with a decision made under regulation 22(3), 23 or 26(8) of the Looked After Children (Scotland) Regulations 2009. The Arrangements to Look After Children (Scotland) Regulations 1996 contained a similar provision.

**b) If not, how did the local authority classify a Foster Carer.**

Yes – Historically, Foster Carer's were approved by the Local Authority Committee following the recruitment process whereby committee and officials met with Foster Carers on a regular basis to review. This later moved to regular ongoing Foster Carer reviews via a panel of approved members. See 1.3 (a).

**c) 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?**

See 1.3 (a) for the legal basis underpinning the legislative basis which enabled the local authority to become responsible for the provision of Foster Care for Children in Scotland:

Children Act 1908  
 Children and Young Persons (Scotland) Act 1993  
 Children and Young Persons (Scotland) Act 1937  
 Social Work (Scotland) Act 1968  
 Local Government (Scotland) Act 1973  
 The Children Act 1975  
 The Children (Scotland) Act 1995  
 The Adoption and Children (Scotland) Act 2009  
 Children's Hearing (Scotland) Act 2011  
 Children and Young People (Scotland) Act 2014  
 Carers (Scotland) Act 2016  
 Care and Training Regulations 1933  
 Children (Boarding-out etc.) (Scotland) Rules and Regulations 1947  
 The Boarding-out Children (Scotland) Regulations 1959  
 Boarding-Out and Fostering of Children (Scotland) Regulations 1985  
 Fostering of Children (Scotland) Regulations 1996  
 Looked After Children (Scotland) Regulations 2009  
 National Care Standards (Foster Care and Family Placement Services) 2002 (Revised 2005)

Fostering Services were required to be registered under part one of the Regulation of Care (Scotland) Act 2001 & Part 5 of the Public Services Reform (Scotland) Act 2010

Morton Committee  
 Clyde Report (1946)

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

The 2009 Regulations required foster carers to enter into 'foster placement agreements' which contain specific regulatory obligations and other obligations as are determined appropriate by the local authority for that carer or a placement.

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

Yes, the Local Authority had a legal duty to all children in its care.

**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

**1.4 Legal Responsibility****(i) Local authority****Past****a) Did the local authority have any legal responsibility for the children in its care?**

Yes - From 1930 - 2014 the local authority had legal responsibility for the children in its care as documented below.

In the 1930's the responsibility would not lie with the term 'local authority' but would more refer to the 'parish' or 'poor houses'.

In the 1960's-1990's the local authority worked in partnership with the welfare officers from the Royal Scottish Society for the Prevention of Cruelty to Children (RSSPCC).

Relevant evidenced legalisation underpinning the above is detailed below:

- The Children and Young People Scotland Act 1937
- Section 2 of Children's Act 1948 (assumption of parental rights).
- Section 44 (1) (a) – Social Work (Scotland) Act 1968
- Section 32 (2) (i) Social Work (Scotland) Act 1968
- Section 37 (2) Social Work (Scotland) Act 1968
- Section 43 (4) – Social Work (Scotland) Act 1968 – reinforced by section 47
- Section 15 Social Work (Scotland) Act 1968
- Section 44 (6) Social Work (Scotland) Act 1968
- Section 18 (2) Social Work (Scotland) Act 1968
- Section 16 Social Work (Scotland) Act 1968 as substituted by Section 74 of the Children Act 1975
- Section 79 Children's (Scotland) Act 1975
- Schedule 1 regulation 7 (1) (a) Boarding of Regulations 1985
- Section 67 Children (Scotland) Act 1995
- Section 70 (3) (a) Children's (Scotland) Act 1995
- Fostering of Children Scotland Regulations (1996)

There is strong evidence in the minutes of Children's Committee meetings throughout the decades evidencing the legal responsibility to children in its care.

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

Local authorities have a statutory duty to comply with the provisions listed at 1.3(i) a) and b) at the times noted.

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

Irrespective of the child being in the local authority's care, until such time as any parental responsibilities or parental rights were removed parents would have had a legal responsibility for their child.

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

If a child was accommodated subject to a supervision order or a child protection order in terms of the Children (Scotland) Act 1995, parents retained their responsibilities and rights, but could not exercise their rights, except within terms of the relevant order.

The Children's Hearings (Scotland) Act 2011 on 24 June 2013 replaced supervision orders with compulsory supervision orders, which have a similar effect. Child protection orders to secure a child in care have been governed by the 2011 Act from the same date. The introduction of the Children's Hearing (Scotland) Act 2011 introduced the relevant person's status; this is not automatic and has to be applied for direct to the Children's Reporter for the Scottish Children's Authority Reporter (SCRA). A pre-hearing panel is arranged where the decision under s.164 of the Children's Hearing (Scotland) Act 2011 deems the Foster Carer to have relevant persons status.

A child was accommodated in terms of a parental rights resolution or parental rights order under s.16A of the Social Work (Scotland) Act 1968. A parental rights resolution was repealed by the Children (Scotland) Act 1995, and now s.11 court orders relate to the direction of parental responsibilities etc. Parental responsibilities and rights could be removed from the parents and transferred to the local authority.

Parental rights orders were replaced by permanence orders from 24 June 2013, Adoption and Children (Scotland) Act 2007 brought in the permanence orders Part 2 s.80 (1)-(3). These orders transfer the responsibility and right of the parent to have the child living with them to the local authority. The remaining parental responsibilities and rights may be removed from the parents and given to the local authority and/or another individual (often a foster carer), or remain with some or all of the parents, in accordance with the decision of the Court.

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

Not Applicable

**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?**

Yes.

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

See answer to 1.3(ii) d).

**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 in terms of the foster care service it provided for children?**

There is evidence throughout the decades that the local authority function and ethos was to safeguard the general health, protection and wellbeing of children in its care.

**1930 -1959**

Information held in West Lothian County Council Committee minutes state that on occasion boarding out was provided to children whose mother required a holiday on doctor's orders. This would indicate that fostering provision was provided to families requiring family support and not only to children at risk of harm.

A number of West Lothian County Council Committee minutes refer to children being boarded out with family members, for whom boarding out fees were paid at the same rate as those boarded out to what was described as "with strangers". This indicates that all parties caring for children under boarding out arrangements received the same level of support regardless of their relationship with the children requiring care.

A number of West Lothian County Council Committee minutes discuss contributions required from parents should their children be placed by us in foster care / boarded out, with amounts being based on the parent's income and circumstances. This indicates that West Lothian County Council took the position that parental responsibilities did not cease if a child was in care.



There is further evidence to show that 'all boarded out children were expected to be treated as part of the family' as specified in the Children Act 1948.

### **1960 -1979**

Our records do not include any specific documents stating the function, ethos and objective in terms of foster care provision during this period. The main legislation in this period, namely the Social Work (Scotland) 1968 and the Children Act 1975 indicate a number of expectations of foster care provision across Scotland, such as the supervision and inspection of carers and children in placements.

The Social Work (Scotland) Act 1968 legislated for contributions from individuals holding parental responsibilities and rights for children who were placed in foster care by us during this period. Implementation of the duties under this legislation indicates that we were committed to ensuring a continued level of parents' responsibility for their children irrespective of where they resided.

Our records indicate that a representative group of our foster carers met with our Social Work Committee to discuss foster carer allowances. The future establishment of a Foster Carer Association to look at the development of foster care was discussed.

In 1975 discussions are recorded about recommendations made by COSLA about acceptable rates of fostering allowances to be adopted when each Local Authority's financial circumstances permitted. Records show that these were accepted, and implemented fully by April 1977. This indicates that we were committed to ensuring that foster carers were fairly compensated for the care provided, and that there was parity with other local authorities.

From 1975 the local authority ethos incorporated the needs, wishes and safety of the children and young people in council care. The local authority believed that all children and young people requiring care outside their immediate birth family had the right to live in a safe, supportive and nurturing family environment that met their needs and enabled them to realise their full potential. This included being listened to and their views acted upon.

### **1980 -1989**

In the 1980's Lothian Regional Council was committed to maintaining children at home or returning them home from care in as short a time as possible. If a return home was not possible the preferred option was adoption unless:

1. Parents were committed to and involved with the child and the child would benefit from the relationship continuing;
2. The child was aged approximately ten or older and did not wish to have a relationship with his or her parents legally severed;
3. The foster parents were not willing to adopt but the child would suffer if removed from their custody and placed for adoption.

For children who could not return home the emphasis was on finding them foster carers who would care for them on a long-term basis.

Emergency foster carers provided short term placements (6 weeks) to enable a speedy rehabilitation home or assessment of a child's longer-term care needs.  
Contract foster carers provided care for the under 12s

Community carers provided care for the over 12s. Our ethos at this time was, wherever possible, to remove children from List 'D' schools or residential placements and place them with foster carers who were responsible for giving them a family experience and prepare them for independent living.

Lothian Region's Homefinding Team was responsible for matching children and young people with appropriate foster carers. Social workers with responsibility for the children and young people applied to the Homefinding Team for a foster care placement.

This period saw the formalisation of our foster care provision including the assessment, approval and support of foster carers. Our records show that we have used the British Association for Adoption & Fostering (BAAF) Form F since 1983 to assess prospective foster carers. The use of this document shows the introduction of a standardised way of assessing prospective foster carers (inventory WLC001). Our records refer to Fostering Panels for the purpose of initial approval and regular reviews. Mention is made of the Divisional Fostering Panel whose responsibility was to make a recommendation about initial approval of foster carers to the Divisional Director of Social Work who had responsibility for ratifying the panel's recommendation. Regular reviews were carried out to consider foster carers' continued approval and update checks as required.

A Share the Care scheme was introduced in the 1980's with the aim of preventing family breakdown or placement breakdown where families/carers were looking after children with significant additional support needs. The scheme provided short breaks ranging from a few hours to weekend breaks to care shared equally between carers and parents. A number of Share the Carers became Supported Adult Placements to continue offering care to young people when they reached adulthood. Share the Care policy and procedures (inventory WLC002) state that reviews were conducted as per the Boarding Out and Fostering of Children (Scotland) Regulations 1985. Partnership Agreements (inventory WLC003) are evident, they were and remain a contract between approved foster carers and the local authority. The agreements outline the respective roles and responsibilities of carers and the council in relation to children in foster care. The agreements reflect the ethos of the period, the role of foster carers and the aims of foster care placements.

The Partnership Agreements between carers and West Lothian Council demonstrates a shared responsibility to further the best interests of the child and to promote opportunities to enhance their development. Carers were expected to adhere to Council policies and standards.

Carers were expected to provide a good standard of emotional and physical care by:

- Providing a safe and secure household;
- Operating within current safe caring practices;

- Giving respect, attention and affection, building self-esteem and developing any special talents;
- Setting consistent limits without resort to physical punishment;
- Encouraging participation in community activities;
- Instruction and good example in health and hygiene habits;
- Maintaining clothing in clean and good condition;
- Being aware of, and sensitive to the child's cultural and racial background and to positively encourage the child in this respect;
- Bringing the child up according to his/her religious persuasion (if any);
- Supervising the child's medical and dental care;
- Being responsible on a day to day basis for the child's attendance at school and keep in contact with school staff re progress;
- Promoting contact between the child and their family (where appropriate);
- Participating with the child, their parents and Council staff in planning programmes of care;
- Discussing with social workers any emotional or behavioural issues affecting the plan or placement;
- Attending and contributing to Child Care Reviews;
- Notifying the Council of any serious illness or other circumstances affecting the child;
- Permitting people authorised by the Council to see the child;
- Keeping a record of and receipts for clothing or equipment bought for the child;
- Notifying the council of any change of address;
- Notifying the council of any change in household composition;
- Having appropriate insurance cover;
- Participating in training for carers and carer reviews;
- Ensuring vehicles are roadworthy.

### **1990 - Onward**

Our current fostering service is based on the model implemented in the 1980's. The service is currently informed by the Children (Scotland) Act 1995; The Regulation of Care (Scotland) Act 2001; The Adoption (Scotland) Act 2007; Looked After Children (Scotland) Regulations 2009; Children's Hearing (Scotland) Act 2011; Children and Young People (Scotland) Act 2014; and the National Care Standards (Foster Care and Family Placement Services) 2005.

Our fostering service places the needs, wishes and safety of children in our care at the centre. We believe that all children requiring care out with their immediate birth family have the right to live in a safe, supportive and nurturing family environment that meets their needs and enables them to realise their full potential. Above all, our children should be listened to and their views considered.

The provision of approved foster carers supports this aim. Foster carers should be able to preserve and promote safe and strong relationships with children; their families their communities; and other key people in their lives. We aim to encourage and promote co-operation and partnership working between all those involved in the care of children in order to promote their best interests and to meet their needs in

respect of their physical & emotional welfare; health; education; identity; culture; ethnicity; and religion.

We have achieved this by building on the initial model; using new legislation and guidance to inform our practice, policies and procedures.

In 2000 we established the Enhanced Foster Care Scheme Plus. This was aimed at providing placements to children displaying complex and challenging behaviours, who otherwise would have been placed in residential establishments. Our enhanced foster carers underwent additional training to prepare and support them to care for the children placed with them.

Our records from 2002 onwards include regular strategic plans for children's services documenting key objectives to reduce the number of children in placement out-with the authority, bring back the children currently in placement out-with the authority, provide intensive family support, and support young people as they progress to adulthood.

From 2004 our records document the progress being made with integrated approaches to children's services and a focus on positive outcomes for looked after children through strategies such as 'For West Lothian's Children' and latterly our Corporate Parenting Policy.

In 2011 an internal review had shown that residential placements were being used because of the lack of appropriate foster placements. The closure of one of the Children's Houses created an opportunity to provide more flexibility. This reduction in residential capacity allowed investment in additional foster carer placements.

**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?**

**1930 – 1959**

Foster carers were expected to care for a child as if they were their own, providing food; adequate clothing; and suitable accommodation.

**1960 -1975**

Our records do not contain any information about what the local authority saw as the foster carer's function, ethos or objective during this time.

**1975 -1996**

Lothian Regional Council led the way in Scotland in the move from residential care to placements with families. In response to new legislation, regulations and guidance including Fostering (Children) Act 1984 and the Boarding Out and Fostering of Children (Scotland) Regulations 1985, we moved towards a professionalisation of the fostering role. This included our use of the BAAF Form F assessment model to ensure consistency when assessing the suitability of applicants wishing to become foster carers, with a focus on a continued review of their suitability.

Further to this our records indicate the use of preparation groups, supervision, support groups, and training to ensure that foster carers had the necessary skills and experience to meet the needs of children. The Community Care Scheme provided

placements to over 12s with approved foster carers. These placements had a focus on providing a family experience and developing independent living skills.

### **1996 - Onward**

Our current service is based on the model introduced in the 1980's and has been developed over time in line with new legislation, guidance and standards and local authority reorganisation. West Lothian Council had a dedicated "Resource Team" now called the Family Placement Team, which is responsible for the recruitment, assessment and support of foster parents. Each foster family has a supervising social worker responsible for supporting the carer in the fostering task and encouraging professional development.

The Partnership Agreements between carers and West Lothian Council demonstrates the ethos and aims of the fostering service. The fostering task is viewed as a shared responsibility to further the best interests of the child and to promote opportunities to enhance their development. Carers are expected to adhere to Council policies and standards.

Carers are expected to provide a good standard of emotional and physical care by:

- Providing a safe and secure household;
- Operating within current safe caring practices;
- Giving respect, attention and affection, building self-esteem and developing any special talents;
- Setting consistent limits without resort to physical punishment;
- Encouraging participation in community activities;
- Instruction and good example in health and hygiene habits;
- Maintaining clothing in clean and good condition;
- Being aware of, and sensitive to the child's cultural and racial background and to positively encourage the child in this respect;
- Bringing the child up according to his/her religious persuasion (if any);
- Supervising the child's medical and dental care;
- Being responsible on a day to day basis for the child's attendance at school and keep in contact with school staff re progress;
- Promoting contact between the child and their family (where appropriate);
- Participating with the child, their parents and Council staff in planning programmes of care;
- Discussing with social workers any emotional or behavioural issues affecting the plan or placement;
- Attending and contributing to Child Care Reviews;
- Notifying the Council of any serious illness or other circumstances affecting the child;
- Permitting people authorised by the Council to see the child;
- Keeping a record of and receipts for clothing or equipment bought for the child;
- Notifying the council of any change of address;
- Notifying the council of any change in household composition;
- Having appropriate insurance cover;
- Participating in training for carers and carer reviews;

- Ensuring vehicles are roadworthy.

We encourage and promote co-operation and partnership working between all those involved in the care of our children, in order to promote their best interests and to meet their needs in respect of their physical & emotional welfare; health; education; identity; culture; ethnicity; and religion.

- 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?**

### **1930 -1975**

Our records do not contain any information that evidence what the local authority saw as the foster carer's function, ethos or objective. From the information we have in our records there is an indication that West Lothian County Council did adhere to relevant legislation and regulations during this period.

The Children and Young Person (Scotland) Care and Training Regulations 1933 specified that children should not be placed in foster care with anyone in receipt of "poor relief" as they should not be removed from poverty only to be placed in a similar environment. This indicates that local authorities had standards about the care afforded to children who were unable to live with their families. We have located records in West Lothian County Council Committee Minutes which indicate that foster care provision, including fostering fees were discussed regularly.

The implementation of the Social Work (Scotland) Act 1968 would have had an impact on the ethos, functioning and objectives of West Lothian County Council

### **1975 -1996**

Lothian Regional Council implemented the COSLA recommended foster care rates by April 1977.

The implementation of the Children's Act 1975 would have had an impact on the ethos, functioning and objectives of Lothian Regional Council during this period. Our records do not contain any specific policies/documents supporting this.

### **1980 – Onward**

In the 1980's Lothian Regional Council was committed to maintaining children at home or returning them home from care in as short a time as possible. If a return home was not possible the preferred option was adoption unless:

1. Parents were committed to and involved with the child and the child would benefit from the relationship continuing;
2. The child was aged approximately ten or older and did not wish to have a relationship with his or her parents legally severed;
3. The foster parents were not willing to adopt but the child would suffer if removed from their custody and placed for adoption.

For children who could not return home the emphasis was on finding them foster carers who would care for them on a long-term basis.

Emergency foster carers provided short term placements (6 weeks) to enable a speedy rehabilitation home or assessment of a child's longer-term care needs.

Contract foster carers provided care for the under 12s

Community carers provided care for the over 12s. Our ethos at this time was, wherever possible, to remove children from List 'D' schools or residential placements and place them with foster carers who were responsible for giving them a family experience and prepare them for independent living.

Lothian Region's Homefinding Team was responsible for matching children and young people with appropriate foster carers. Social workers with responsibility for the children and young people applied to the Homefinding Team for a foster care placement.

This period saw the formalisation of our foster care provision including the assessment, approval and support of foster carers. Our records show that we have used the British Association for Adoption & Fostering (BAAF) Form F since 1983 to assess prospective foster carers. The use of this document shows the introduction of a standardised way of assessing prospective foster carers (inventory WLC001).

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

**1930 -1959**

Our records do not indicate that there were any changes that impacted on the provision and functioning of foster care during this period.

**1960 -1979**

Our records do not indicate that there were any changes that impacted on the provision and functioning of foster care during this period.

**1980 -1989**

There is evidence of change due to changes in relevant legislation, initiatives, guidance and a focus on providing care in family placements rather than residential care.

**1990 – Onward**

There is further evidence of changes linked to the introduction of legislation, regulations and guidance, including The Looked After Children (Scotland) Regulations 2009; National Care Standards (Foster Care and Family Placement Services) 2002 (Revised 2005).

**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?**

**1930 -1959**

Our records do not contain information to identify if there were any changes in terms of what West Lothian County Council saw as the foster carers function, ethos and/or objective during this time.

**1960 - 1975**

The implementation of the Social Work (Scotland) Act 1968 would have had an impact on the ethos, functioning and objectives of West Lothian County Council but our records do not contain any specific policies/documents supporting this.

**1975 -1996**

The implementation of Children's Act 1975 would have had an impact on the ethos, functioning and objectives of Lothian Regional Council but our records do not contain any specific policies/documents supporting this.

Lothian Regional Council implemented COSLA's recommended foster care rates by April 1977.

Lothian Regional Council had a clear focus on no under 12s being placed in residential care and over 12s, wherever possible, moving to family placements from residential care and being prepared for independent living, where children could not return home. The emphasis was on permanent substitute care arrangements for them. The expectation of all carers was that children were provided with a safe nurturing environment and that foster carers helped older children learn skills for independence.

**1996 – Onward**

The role of foster carers has become more professional since the mid-1980's and this has been a gradual change in line with the introduction of new legislation, guidance and standards, such as the National Care Standards (Foster Care and Family Placement Services) 2002 (Revised 2005).

The aim of our fostering service is to make a positive and lasting difference to the lives of children and young people in our care through the provision of high-quality care from foster carers who are able to offer a safe, nurturing and supportive environment to meet our children's individual needs. This is detailed in the West Lothian Council Fostering Service Statement of Purpose (inventory WLC004).

**f) If so, what were the changes and when and why did they come into effect?****1930 - 1959**

We do not have evidence of changes in terms of what we saw as foster carers functions, ethos and/or objectives during this period.

**1960 - 1975**

We do not have evidence of changes in terms of what we saw as foster carers functions, ethos and/or objectives during this period.

**1975 - 1996**



Lothian Regional Council had a clear focus on no under 12s being placed in residential care and over 12s, wherever possible, moving to family placements from residential care and being prepared for independent living. Where children could not return home, the emphasis was on permanent substitute care arrangements for them. The expectation of all carers was that children were provided with a safe nurturing environment and that foster carers helped older children learn skills for independence.

### **1996 - Onward**

Since the 1990's there have been a number of changes implemented in line with the introduction of relevant legislation and regulations, including Looked After Children (Scotland) Regulations 2009.

**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 2015 we have used the National Placement Descriptors as recommended by the Scottish Government as per the findings of the National Foster Care Review (2013). The recommended descriptors are as follows –

- Permanent – placement secured by a Permanence Order
- Long Term – placement which has been in place for longer than 24 months not secured by a Permanence Order.
- Interim – placement which has been in place for less than 24months, not secured by a Permanence Order.
- Emergency – An unplanned placement made in an emergency. As per the Looked After Children Regulations 2009, these placements are reviewed within 72hrs and may not be extended over 12 weeks.
- Short Breaks – A placement that forms part of a planned series of short breaks (including emergency placements with a foster carer who is already providing planned short break placements to the child or young person)

The National Foster Care review recommendations, including the placement descriptors were discussed at West Lothian Council's Policy Development & Scrutiny Panel in March 2014.

## **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?**

Prior to 2004 the figures are based on information gleaned from available records and are as accurate as possible.

DATE	CHILDREN	PLACEMENTS
1930 - 1959	17	Not recorded
1960 - 1979	34	Not recorded
1980 - 1989	176	Not recorded
1990 - 1994	204	Not recorded
1995 - 1999	268	Not recorded
2000 - 2004	328	Not recorded

In October 2004 we began to use a social care case management system. The data from 2004 - 17 December 2014 is recorded below.

DATE	Children under 12	Children over 12	Number of Carers	Number of Placements
2004 – 17.12.14	349		113	718
2004 – 17.12.14		159	60	229

DATE	Children receiving Respite	Respite Carers	Respite Placements
2004 - 17.12.14	331	**132	2157

\*\*Please note that couples have been included together as one household and not two individuals.

- b) **How many foster carers were approved/registered by the local authority at any given time? How many placements for children did this represent? How many placements were in use at any given time?**

We are unable to accurately establish all the information due to the way historical records were maintained.

Date	Foster Carers	Placements
1930 – 1959	14	Not recorded
1960 – 1979	5	Not recorded
1980 – 1989	42	Not recorded
1990 – 1994	62	Not recorded
1995 – 1999	72	Not recorded
2000 – 2005	108	Not recorded

From 2006 the method of recording changed to meet care inspectorate requirements. Information has been taken from care inspectorate annual reviews 2006-2014.

Date	FC Households	FP Placements	Short breaks
14.11.2006	80	148	
21.01.2009	84	154	
06.02.2009	69	152	33
26.01.2010	70	154	25
08.12.2011	71	132	

03.03.2011	78	132	
12.03.2013	78	133	41
12.03.2014	78	132	

- 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, and long-term foster care – please provide details of the categories and the numbers of placements in each.

#### Types of care provided by Foster Carers

DATE	Short term	Long term	Respite	Mixed	Unknown
1930-1959	Not Known	Not Known	0	0	14
1960-1979	14	8	11	13	
1980-1989	126	22	21	28	
1990-1994	117	36	21	21	
1995-1999	137	42	42	73	
2000-2004	177	79	55		

In October 2004 the local authority began using our current social care case management system.

Date	Short term	Long term	Respite	Placements
2004 - 17.12.14	807	176	331	2665

#### Number of Carers that have been used for placements types

Date	Short term	Placements	Long term	Placements	Respite	Placements
2004 - 17.12.14	807	781	176	166	331	2157

Some carers will be counted more than once as they offer a combination of the 3 placement types

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

Since 2015 we have used the National Placement Descriptors as recommended by the Scottish Government as per the findings of the National Foster Care Review (2013). The recommended descriptors are as follows:

- Permanent – placement secured by a Permanence Order
- Long Term – placement which has been in place for longer than 24 months not secured by a Permanence Order.
- Interim – placement which has been in place for less than 24months, not secured by a Permanence Order.
- Emergency – An unplanned placement made in an emergency. As per the Looked After Children Regulations 2009, these placements are reviewed within 72hrs and may not be extended over 12 weeks.
- Short Breaks – A placement that forms part of a planned series of short breaks (including emergency placements with a foster carer who is already provided planned short break placements to the child or young person)

The number of children in foster care placements has increased as we have reduced residential care placements and focus on a) maintaining children at home or with extended family and b) providing foster care placements wherever possible for those children who have to live away from home.

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

**Total children accommodated**

Date	Total children Accommodated
1930 - 1959	30
1960 - 1979	67
1980 - 1989	231
1990 - 1994	231
1995 - 1999	292
2000 - 2005	409

**Taken from our social care case management system**

Date Range	Total children Accommodated
2004 - 17.12.2014	850

- 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?**

From 1930 to 1968 the main service provided was residential care in establishments. From 1968 to 17 December 2014 the number of residential provisions were reduced which led to an increase of foster care placements.

**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.**

We currently provide more foster care placements than residential placements.

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

Date	Children under 12	Children over 12	Number of Carers	Number of Placements
18.12.14 - 09.09.20	359		103	522
18.12.14 - 09.09.20		92	63	134

DATE	Children receiving Respite	Respite Carers	Respite Placements
18.12.14 – 09.09.20	89	**61	292

\*\*Please note that couples have been included together as one household and not two individuals.

- b) How many foster carers were approved/registered by the local authority at any given time? How many placements for children did this represent? How many placements were in use at any given time?**

Date	FC Households	FP Placements	Short breaks
12.03.2014	78	132	
26.01.2015	78	132	21
21.12.2016	76	131	
31.10.2018	98	153	
31.10.2019	93	132	

- 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, and long-term foster care – please provide details of the categories and the numbers of placements in each.**

Date	Short term	Long term	Respite	Placements
18.12.14 – 09.09.20	781	166	292	700

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

Date	Total children Accommodated
18.12.2014 - 2020	900

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

### **Past**

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

#### **1930 -1959**

Our records indicate that children placed in foster care were placed for similar reasons including failing to maintain a child; neglect; abandonment; desertion; homelessness/eviction; death (of carer); hospitalisation; imprisonment of parent. Although not explicit in our records of this time it may be that the children had similar experiences.

#### **1960 -1979**

As in the previous decades, our records contain similar reasons including; neglect, sexual or physical abuse, abandonment, disability; death (of carer), and imprisonment of parent.

**1980 - Onward**

As in the previous decades, children shared similar histories of family breakdown due to a range of contributing factors including: poverty; neglect or other abuse, our records contain similar reasons with the addition of poor school attendance.

**b) Were children admitted into the care of the local authority, or were they admitted into the care of particular foster carers?****1930 -1959**

Our records indicate that children were boarded out "with strangers" or with family members. Children who had family members willing to care/accept them being boarded out with them were "assumed" into care.

**1960 -1979**

Children were admitted into the care of the local authority

**1980 -1989**

Children were admitted into the care of the local authority.

**1990 – Onward**

Children were admitted into the care of the local authority.

**c) Who placed children with the local authority?****1930 -1959**

Our records indicate that children were placed with West Lothian County Council by their parents, the police, and Sheriff Court order.

**1960 -1979**

Our records indicate that children were placed with West Lothian County Council by their parents, Children's Hearings, or Sheriff Court order.

**1980 -1989**

Our records indicate that children were placed with Lothian Regional Council by their parents, Children's Hearings or Sheriff Court order.

**1990 – Onward**

Our records indicate that children were placed with the local authority by their parents, the Children's Hearings or Sheriff Court order.

**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?****1971 - 1979**

Our records indicate that a number of children were received into the care via the Children's Hearing System. Our records do not contain information about all of the children received into care so we are unable to confirm if this occurred mainly via the Children's Hearing system.

**1980 -1989**

Our records indicate that a number of children were received into care via the Children's Hearing System. Our records do not contain information about all the children received into care we are unable to confirm if this occurred mainly through the Children's Hearing system.

**1990 – 2004**

Our operational knowledge is that children were, in the main, received into care via the Children's Hearing system.

**2004 – onward**

Children were received into care mainly through the Children's Hearing system.

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

Not applicable.

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

We have no information until the introduction of our social care case management system in 2004. This indicates that 682 children were with local authority foster carers for a period of 2 years and under and 139 children remained with foster carers for a period of 2 years and over.

**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?**

**1930 – 1971**

Our records indicate that West Lothian County Council Committee made the decision as to whether children should be assumed into the care of the local authority and placed in foster care. Between 1932 and 1968 children were admitted into the care of the local authority through The Juvenile Courts.

**1971 - onwards**

The local authority or Children's Hearing system decides whether children should be placed in foster care.

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

From our records throughout the period 1930 to 2014 the reasons for admitting children into care include the following:

- Abandonment
- Desertion
- Family Breakdown
- Bereavement
- Mental Health
- Physical Impairment

- Parents being evicted due to non-payment of rent
- Unemployment
- Parental illness
- Parental substance misuse
- Non-attendance at school

### **1930 – 1970**

It is not clear how the local authority decided which children would be placed with foster carers

### **From 1970 onward**

In reaching a decision to place a child in foster care we consider:

- our legal duty to ensure the child's safety and welfare are safeguarded and protected when this cannot be achieved in the family home;
- Any statutory order compelling the child to be placed in a certain type of care provision;
- Whether there are members of the child's extended family in a position to offer care;
- Assessment of the child's needs (age, gender, ethnicity, identity, health, disability, religious requirements, developmental needs, geographical proximity to their family home, sibling relationships, emotional, behavioural and social issues, and any risk of harm the child may present to themselves or others) is considered before making the decision to place a child in foster care.

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

#### **1930 -1959**

Our records from this period are limited and we are unable to provide any information about placement moves.

#### **1960 -1979**

Our records refer to children being moved to different foster care placements but records are limited and we are unable to provide any detailed information.

#### **1980 - 1989**

Yes

#### **1990 - Onward**

Yes

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

#### **1930 -1959**

We have no information about placement moves or any circumstances that may have contributed to this.

#### **1960 -1979**



Our records do not provide a great deal of information about placement moves or any circumstances that may have contributed to this. The records we do have indicate that children were moved due to challenging behaviour.

**1980 -1989**

Records suggest that the circumstances depended on the needs of the individual child such as permanence, emergency placement, breakdown of placement; siblings placed together, siblings separated due to impact on individual child, allegations made by foster child.

**1990 – Onward**

Records suggest that the circumstances depended on the needs of the individual child such as permanence, emergency placement, breakdown of placement; siblings placed together, siblings separated due to impact on individual child, allegations made by foster child.

**k) Generally did children typically stay in one, or more than one, foster care placement?****1930 -1959**

We cannot establish if children generally remained in one, or more than one, foster placement during this period.

**1960 -1979**

We cannot establish if children generally remained in one, or more than one, foster placement during this period.

**1980 -1989**

We cannot establish if children generally remained in one, or more than one, foster placement during this period.

**1990 – Onward**

Children generally stayed in more than one foster care placement.

**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?****1930 -1959**

Our records do not contain any information about a review process for children's continued residence in foster care. West Lothian County Council's Committee minutes referenced visits by the Chief Public Assistance Officer but do not state how often these visits took place or the purpose of them.

**1960 -1979**

Our records indicate that reviews took place during this period. This involved allocated key workers, for example the children's worker completing a report; and key people including birth parents attending a meeting.

**1980-1989**

Our records indicate that reviews took place during this period. This involved allocated key workers, for example the children's worker completing a report; and key people including birth parents attending a meeting.

### **1990 – Onward**

From 2000, Looked After and Accommodated Children policies and procedures were introduced. Looked after childcare reviews are a statutory requirement and take place at regular intervals as outlined in the Looked after Children (Scotland) Regulations 2009. A planning meeting takes place within 72 hours. Thereafter the plan is reviewed within six weeks, then within three months of the child being accommodated and then within 6 months of the previous review.

When a Permanence Order has been granted, the frequency of reviews can be reduced to annual with the agreement of the Agency Decision Maker, to reflect legal security and a settled long-term placement.

Looked After Reviews (or Pathway Reviews for older young people), chaired by independent reviewing officers, consider the need for a young person to remain in our care and the appropriateness of the particular foster care placement and future planning. Children's Hearings and, in certain circumstances, the Sheriff reviews whether a child should remain in our care.

Foster Carers are reviewed at least annually by the Fostering Panel which considers whether the carers are providing an appropriate standard of care and should continue in the role of carer.

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

#### **1930 -1959**

Our records do not hold any information about a process for discharge for children leaving foster care during this period.

#### **1960 - 1979**

Throughout the 1960's it was evident that following decisions made by the Children's Officer, a report would be presented to the Children's and Social Work Committee who would make the decision based on the recommendations.

#### **1980 -1989**

Our records indicate the use of Community Care Scheme for over 12's, with an emphasis on supporting young people to develop independent living skills in preparation for children moving on. Reference is made to Pathway Reviews and supporting young people to apply for further education/training and to access supported accommodation. Our records do not enable us to confirm if this was the case for all young people leaving foster care.

### **1990 – Onward**

In 2002 we commissioned our own research into our Throughcare and Aftercare Services, which at that time were 2 separate services. A number of recurring issues were identified, including a lack of adequate planning before leaving care; a lack of adequate independent living skills; high level of evictions; and lack of educational qualifications.

In response to our commissioned research and in preparation for The Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 (enacted 2004) we created one service, Throughcare and After Care, to ensure that all of our young people leaving care had a comprehensive and appropriate package of services designed to help them make the transition into independence. We believed that by functioning as one service young people would be able to access a range of services and that this approach would ensure more effective joint working between social work and housing. Quality indicators for best practice in Throughcare and Aftercare were reported to committee in 2006.

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

**1930 -1959**

West Lothian County Council Committee minutes refer to young people being supported to access/find employment and to access training. Some of these minutes indicate that financial support for board, bus fares, clothing and boots was provided to young people moving into independence.

Evidence shows a variety of levels of support and that this was dependent on whether the child returned home or moved on to independent living and was dependent on the age and stage and level of need of the individual child.

**1960 -1975**

West Lothian County Council Committee refer to young people being supported to access/find employment, training, housing, and community care grants.

**1975 -1996**

Lothian Regional Council Committee minutes refer to young people being supported to access/find employment, training, housing, and community care grants. The Supported Accommodation Team provided support to young people. The City of Edinburgh Council may have information about the specific role and remit of this team.

**1990 – Onward**

The Children (Scotland) Act 1995 placed a duty on us to “prepare young people for leaving care or ceasing to be looked after”. We in turn have an expectation that our foster carers will support our children in their care to develop their independent living skills. As per the Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003, all of our children who are leaving care have a pathway plan which coordinates support with finances; education/training; and accommodation etc. through our Throughcare and After Care service.

A number of our foster carers offer Continuing Care Placements and/or Supported Adult Placements to young people who are not ready to move out and into their own accommodation.

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

**1930 -1959**

Our records do not state what information was sought by West Lothian County Council representatives about what children leaving foster planned to do after leaving care.

**1960 – 1975**

Our records do not state what information was sought by West Lothian County Council representatives about what children leaving foster planned to do after leaving care.

**1975 - 2000**

There is information in the minutes of Child Care Reviews of children's future plans.

**2000 – Onward**

The young person's Pathway Plan details their plans for the future and the support required.

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

**1930 -1959**

Our records do not contain information about children leaving foster care during this period.

**1960 -1979**

Our records do not contain information about children leaving foster care during this period.

**1980 -1989**

Our records contain information about children leaving foster care during this period. Records were updated if the young person was still in contact with a social worker.

**1990 - Onward**

There is clear evidence in the records that confirms the local authority retained and updated relevant information.

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

**1930 -1959**

West Lothian County Council Committee minutes indicate that young people were supported to access training and employment opportunities and were provided with financial assistance for board, travelling expenses, and clothing/footwear.

**1960 - 1975**

West Lothian County Council Committee minutes indicate that young people were supported to access training and employment opportunities, housing, and financial support.

**1975 -1996**

Lothian Regional Council minutes and Child in Care Reviews indicate that young people were supported to access training and employment opportunities, housing, and financial support after leaving foster care.

**1996 – Onward**

After care support included tenancy support, financial support, support with employment, education and training, clothing, an allocated worker, Barnardo's 16+ project, 15-24 project and pathway planning meetings.

**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.**

The role of the child in planning for leaving care has become embedded in practice, and most recently through the introduction of Continuing Care (Children and Young Person's (Scotland) Act 2014).

**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?**

**1930 - 1959**

Our records do not identify the number of staff who had some responsibility for foster care services during this period.

**1960 - 1979**

Our records do not identify the number of staff who had some responsibility for foster care services during this period.

**1980 -1989**

Our records do not identify the number of staff who had some responsibility for foster care services during this period.

**1990 - Onward**

Available records indicate that the total number of staff members who were involved with children in foster care in 1990 is c.480 people. This is based on the average of 100 staff in post per year and an average turnover of 14.8 people per year taken

from salary reports for 2008 to 2014. A similar pattern is assumed for the whole period 1990 to 2014.

The Fostering Service team currently has 1 Team/Registered Manager and 11 supervising social workers (8.45 FPT).

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

**1930 -1959**

Our records do not identify the number of staff who had some responsibility for foster care services during this period.

**1960 -1979**

Our records do not identify the number of staff who had some responsibility for foster care services during this period.

**1980 -1989**

Our records do not identify the number of staff who had some responsibility for foster care services during this period.

**1990 – Onward**

Available records indicate that the average number of staff members employed at any one time who may have been involved with foster care services is estimated to be 100 people, based on the average people in post per year of salary records for 2008 to 2014. A similar pattern is assumed for the whole period 1990 to 2014.

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

**1930 -1959**

Our records indicate that Children's Officers were employed by West Lothian County Council. Our records do not contain any specific details about their role and responsibilities however, reference is made to the Children's Officer completing visits to children in foster care.

Our records indicate that The Chief Public Assistance Officer was responsible for visiting all children in foster care in addition to a variety of other tasks not related to foster care services.

Reference is made to an Inspector visiting boarded out children but no further details are provided. It is not clear if the Inspector was an employee of West Lothian County Council or an external organisation.

It is likely that all of the roles mentioned in this section, namely Children's Officers; Chief Public Assistance Officer; and Inspector would have come into contact with children and foster carers during this period. Our records indicate that Committee members visited children in foster care to distribute Christmas gifts.

**1960 -1979**

Our records indicate that Children's Officers were employed by West Lothian County Council but do not contain any specific details about their role and responsibilities. It is likely that officers in this role would have come into contact with children and foster carers during this period.

### **1980 – 1990**

Our records indicate that social workers responsible for the child and social workers with the responsibility to assess and support foster carers would have met with foster carers and children. Members of the Fostering Panel would have met foster carers.

### **1990 – Onward**

Since the 90's social workers with specific responsibility to recruit, assess and support foster carers have been employed in West Lothian.

All of our foster carers have allocated supervising social workers who are responsible for monitoring the standard of care they are providing and to help with the ongoing development of their skills and knowledge base. This is undertaken either via 1 to 1 support/supervision; or through support groups and training. Our supervising social workers provide practical support, attend Looked After and Accommodated (LAC) meetings with foster carers; arrange funding for additional equipment and ensure that carer payments are processed in a timely manner. They ensure that foster carer reviews are held as required, in line with statutory requirements, and monitor their approval to ensure that it is still appropriate. Our supervising social workers visit regularly, as per statutory guidance and undertake at least one unannounced home visit each year.

We have had a team/registered manager since 2005 when our fostering service was set up, who is responsible for ensuring that the service is compliant with the relevant legislation, regulations, guidance and standards. The manager provides supervision and support to the supervising social workers.

Children & foster carers will have come into contact with supervising social workers; children's social workers and family support workers. The team/registered manager of the fostering services will have come into contact with foster carers and some children.

In addition to the roles outlined for the foster carers, each child in foster care has their own social worker and reviewing officer.

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

#### **1930 -1959**

We are aware that the experience and qualifications of the Children's Officer and Chief Public Assistance Officer during this period was a certificate in Child Care or letter of recognition (issued by the Home Office Central Training Council in Child Care from 1947 to 1971). We have not identified any records to this effect.

#### **1960 -1979**

We are aware that the experience and qualifications required of staff during this period was a Certificate in Social Work (issued by the Council for Training in Social Work from 1962 to 1971), a certificate of Qualification in Social Work (issued by Central Council for Education and Training in Social Work from 1971 to 1998), a Certificate in Social Service (issued by Central Council for Education and Training in Social Work from 1975 to 1995), and a Probationary Certificate (issued by the Recruitment and Training Committee of the Advisory Council for Probation and After Care until 1971). It has not been possible to ascertain from our records if these qualifications were held.

### **1980 -1989**

We are aware that the experience and qualifications required of staff during this period was a certificate of Qualification in Social Work (issued by Central Council for Education and Training in Social Work from 1971 to 1998), a Certificate in Social Service (issued by Central Council for Education and Training in Social Work from 1975 to 1995) and a Letter of comparability to Certificate of Qualification in Social Work (issued until 1990).

### **1990 - 1999**

During this period staff were required to have a Diploma in Social Work. Qualifications noted above allowed people to practice as a social worker.

### **2000 onwards**

Staff are required to have a BA (Hons) in Social Work. Since 2003, Social Work is considered to be a protected title and only those with the appropriate qualifications are able to practice. Social Workers have to be registered with the Scottish Social Services Council (SSSC) in order to practice.

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

### **1930 -1959**

Our records indicate that some children who were placed in foster care by West Lothian County Council were placed with extended family members. In some of these cases the family members applied to have the child placed with them. Our records make references to children being boarded out "with strangers". There is no information about how these foster carers were identified and approved/registered during this period. Our records do not refer to a fostering panel, but indicate that West Lothian County Council Committee had oversight of foster care during this period, including individual case discussions about children and reviewing fostering fees.

### **1960 -1979**

Our records indicate that some children who were placed in foster care by West Lothian County Council/Lothian Regional Council were placed with extended family members. In some of these cases the family members applied to have the child placed with them. Our records reference children being boarded out "with strangers". There is no information about how these foster carers were identified and approved/registered during this period. Our records do not refer to a fostering panel but indicate that West Lothian County Council/Lothian Regional Councils'



Committees had oversight of foster care during this period, including individual case discussions about children and reviewing fostering fees.

### **1980 -1989**

Our records refer to a number of panels during this period, including the Divisional Fostering Panel and Over 12's Panel. Our records do not indicate when these panels were established but indicate that they may have been established in response to the Foster Children (Scotland) Act 1984 with the purpose of;

- Divisional Fostering Panel – Initial approval of foster carers; annual reviews of foster carers to ensure they remained suitable to continue with the fostering role.
- Over 12's Panel – approval for children over 12 as per the Community Care Scheme (approval for already approved foster carers specifically for over 12's).

### **1990 - Onward**

Each local authority had to establish foster panels as per the Boarding-out and Fostering Children (Scotland) Regulations 1985. Our current fostering panel model is based on the Foster Children (Scotland) Act 1984 and the Boarded Out and Fostering Children (Scotland) Regulations 1985, adapted in line with the Looked After Children (Scotland) Regulations 2009 and the National Care Standards (Foster Care and Family Placement Services) 2005.

The purpose of the panel is to make a recommendation about the initial approval of prospective foster carers for West Lothian Council and the ongoing review of approved foster carers. We review all foster carers at the panel annually, except if there has been a significant change in their circumstances, or allegations/Child Protection concerns are raised in which case immediate action is taken. We de-register foster carers at this panel. Approval is made in line with relevant policy and procedure, and in line with the required National Placement Descriptors (since 2015) as recommended by the Scottish Government as per the findings of the National Foster Care Review (2013).

Our panel consists of 6 members, with a minimum of 3 panel members in attendance in order for the panel to proceed. We have a medical adviser to the panel, who as per the Looked After Children Regulations 2009 is a registered medical practitioner. They do not always attend the panel but submit a report for consideration by the panel. A similar arrangement exists for the legal adviser to the panel, who is a qualified solicitor.

Qualifications for other panel members are not specified but we do require that panel members have relevant experience of working with children. A minute is completed in respect of all initial approval meetings and annual reviews and sent to the Agency Decision Maker (ADM) to be ratified.

### **The Fostering Panel Purpose and Remit sets out the following:**

- To consider all applications for prospective foster carers for West Lothian Council, in order to make a recommendation to the Agency Decision Maker

about their suitability to act as a foster carer, and if so the terms on which they should be approved, e.g. number, age and gender of children that can be placed;

- To consider the first review of newly-approved foster carers within 12 months of initial approval, and any subsequent reviews referred to it by the fostering service, to recommend whether or not they remain suitable to continue as foster carers, and if the terms of the approval remain the same;
- To monitor and advise on the procedures for undertaking reviews of foster carers;
- To give advice and make recommendations on any other matters or cases referred to the panel by the fostering service team.

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

**1930 -1959**

The Children (Boarding-out etc.) (Scotland) Rules and Regulations 1947 placed a responsibility on local authorities to conduct "all necessary enquiries on any person whom they propose to select as foster-parents for the care of boarded-out children is of good character and is in all respects fit to look after the health, education and general well-being of children". These rules and regulations required that the committee overseeing foster care placements were held regularly (at least three monthly) and that there was at least three female committee members. West Lothian County Council Committee Minutes from this time indicate an adherence to these regulations.

**1960 -1979**

West Lothian County Council and Lothian Region Council Committee minutes from this period indicate that these committees and relevant sub committees had oversight for foster care during this period and that the rules and regulations with regards to panel functioning and composition were adhered to.

**1980 -1989**

The Boarding-Out and Fostering of Children (Scotland) Regulations 1985 required that we establish fostering panels to "consider every person referred to it by the care authority as prospective foster parent" to make a recommendation regarding their suitability to act as a foster carer. We have only found one specific policy from this time, the System of Review – Share the Care, it does refer to the Share the Care Panel and the Divisional Fostering Panel.

**1990 – Onward**

The Fostering of Children (Scotland) Regulations 1996 were revoked by the Looked After Children (Scotland) Regulations 2009, which have governed fostering arrangements, including the fostering panel, since 28<sup>th</sup> September 2009.

Government guidance and our policy state that our fostering panel should consist of 6 members and include a medical and legal adviser. Panels can only take place if a minimum of three panel members are present.

The medical adviser and legal adviser do not have to attend panels. The medical adviser will submit a report in respect of all potential foster carers attending for initial approval and for all approved foster carers being reviewed. Guidance from our legal adviser is sought as and when required. As per guidance, our medical adviser is a qualified and registered medical practitioner and our legal adviser is a qualified solicitor. Other panel members are generally experienced social workers and education professionals, primarily West Lothian Council staff.

### **Present**

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

Yes

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

The Fostering of Children (Scotland) Regulations 1996 were revoked by the Looked After Children (Scotland) Regulations 2009, which have governed public fostering arrangements from 28<sup>th</sup> September 2009 until the present day. As time has progressed panels have evolved over time. The 2009 regulations stipulate that the panel should consist of six members and include a medical adviser.

Current panels usually consist of three members and the medical adviser does not attend (but supplies information.) This is compliant with regulations. Panel members are generally experienced social workers or social care professionals. It was clearly evident in the records that West Lothian Council is fully compliant.

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

### **(ii) Foster carers**

#### **Past**

- a) **How were foster carers identified and approved/registered?**

#### **1930 - 1959**

Our records indicate that many children who were placed in foster care by West Lothian County Council were placed with extended family members. In some of these cases the family members applied to have the child placed with them. Our records reference children being boarded out "with strangers". There is no information about how foster carers were identified and approved/registered during this period.

#### **1960 - 1979**

With the exception of reference in West Lothian County Council Committee minutes to an advert being placed to recruit foster carers our records do not identify how carers were identified during this period. The records suggest that foster carers

were extended family members who may have approached us when children known to them were accommodated or were at risk of becoming accommodated.

Our records indicate that people wishing to become foster carers completed an application form, were interviewed, had a home conditions assessment and a medical assessment. As we do not have the total number of foster carers during this period we are unable to advise if this process was followed for all people wishing to become foster carers.

### **1980 - Onward**

Our records indicate that Lothian Regional Council used the BAAF Form F assessment template to assess foster carers during this period. Applications were then submitted to the Divisional Fostering Panel for consideration and recommendation, and the Divisional Area Manager ratified the recommendation.

One of the major innovations in the 1985 Regulations was the requirement on care authorities to establish fostering panels, whose functions were to "consider every person referred to it by the care authority as a prospective foster parent" later changed to carer, and to make recommendations to the care authority as to the suitability of such a person to act as a foster parent or carer for any child. In considering its recommendations, the care authority had to act in accordance with its duties as specified in legislation/regulations. There is clear evidence in our records of an application process where foster parents/carers were identified, approved and subsequently registered.

This process was underpinned by section 7 of the boarding out and fostering of children (Scotland) regulations 1985 which were later replaced by the Looked After Children (Scotland) Regulations 2009. There is clear evidence in our records that the local authority complied with S.7 of the Boarding Out and Fostering Children Regulations 1985 which clearly specified that foster carers must be registered.

As per the Approving Carers Policy and BAAF Form F, all statutory checks were and continue to be carried out in respect of all relevant parties, including the prospective foster carers, relevant household members, and/or members of the carer's extended support network.

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

#### **1930 - 1959**

Our records do not contain this information.

#### **1960 - 1979**

Our records do not contain this information.

#### **1980 - 1989**

Although there were no specific qualifications required, there were specific skills, knowledge and abilities referenced in the foster carer application. There was an ongoing requirement that they would undertake mandatory and in-house training

once approved. There is evidence in carers' files of attendance at preparation groups, training and support groups.

### **1990 – Onward**

Although there are no specific qualifications required, there is a competency-based assessment (Skills to Foster) that focuses on specific skills, knowledge and abilities that foster carers are expected to evidence. There is an ongoing requirement that foster carers undertake mandatory and in-house training once approved. This is reviewed as part of the foster carer annual review.

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

#### **1930 - 1959**

Our records do not specify any checks that were required to be carried out on prospective foster carers during this period.

#### **1960 - 1979**

Our records indicate that a home conditions assessment and medical assessment were required by prospective foster carers during this period.

#### **1980 - 1989**

Our records indicate that the home conditions were checked and references; criminal records check on prospective carers, any other adults in the household and medical assessments were required before foster carers could be approved.

#### **1990 - Onward**

There is clear evidence in recent decades that criminal record checks were undertaken. Since 2002 with the introduction of Disclosure Scotland, our foster carers have all had enhanced criminal record checks. Household members over the age of 16yrs and anyone providing childcare for the foster carers have to have an enhanced criminal records check. In 2010, a new membership scheme, the Protection of Vulnerable Groups or PVG Scheme, was introduced. This replaced the previous disclosure arrangements. All prospective foster carers must undergo an enhanced check which is updated every 3 years. References are sought and at least one referee is interviewed by the assessing social worker.

The following checks are undertaken:

- References
- Criminal Background checks (CBR) later known as Protection of Vulnerable Groups (Scotland) 2007 implemented 2011 (PVG)
- Unannounced Home visits
- Annual Reviews
- Medical Checks
- Health & Safety checks
- Home study
- Local authority checks

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

**1930 -1959**

Our records do not specify any checks that were required to be carried out on other people residing with the prospective foster carer's property during this period.

**1960 -1979**

Our records indicate that a home conditions assessment and medical assessment were required by prospective foster carers during this period.

**1980 -1989**

Our records indicate that criminal records checks were sought for any adults (16+) living in the household. The views of children and other people living in the household were sought during the assessment.

**1990 - Onward**

Our records indicate that criminal records checks were sought for any adults (16+) living in the household. The views of children and other people living in the household were sought during the assessment. Updated checks are required at least every 3 years.

**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?**

**1930 -1959**

Our records do not specify any checks that were required to be carried out on other family members and friends of a prospective foster carer during this period.

**1960 -1979**

Our records do not specify any checks that were required to be carried out on other people residing with the prospective foster carer's property during this period.

**1980 -1989**

Our records indicate that criminal records checks were sought for any adults (16+) living in the household.

**1990 – Onward**

Our records indicate that criminal records checks were sought for any adults (16+) living in the household. In addition, police checks are required for any adult offering care to the child on behalf of the foster carer (baby sitter). Updated checks are required at least every 3 years.

**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?**

**1930 -1959**

Our records do not specify any checks required on foster carers; their friends and family; or other household members during this period or if and how these were reviewed.

**1960 -1979**

Our records do not specify if home conditions assessment and medical checks were completed for foster carers or if they were reviewed. Nor do our records specify if any checks were required of friends & family; or other household members during this period or if and how these were reviewed.

**1980 -1989**

Records indicate that Criminal records checks and medical assessments were completed for all foster carers. Our records indicate that criminal records checks were sought for any adults (16+) living in the household. There is evidence of criminal records checks on other adults (presumably babysitters). There is some evidence of criminal records checks being updated after 3 years.

**1990 - Onward**

There is evidence that the local authority adhered to the national standard requirements. Police and medical checks were initially carried out yearly, this later changed to every two years, and unannounced home visits and health and safety checks were carried out in line with local authority policy, procedure and guidelines.

- 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?**

**1930 – 1959**

Our records do not specify any checks required on the foster carer's accommodation during this period.

**1960 -1979**

Our records refer to prospective foster carers having a home conditions assessment completed. Our records do not specify it this was carried out with all prospective foster carers, approved foster carer, or if this was reviewed.

**1980 -1989**

Our records refer to prospective foster carers having a home conditions assessment completed. Our records do not specify it this was carried out with all prospective foster carers, approved foster carer, or if this was reviewed.

**1990 - Onward**

Our records demonstrate that as part of the health and safety checks, regular announced and unannounced home visits were undertaken and that there was an expectation of at least one unannounced home visit on an annual basis.

- 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?**

Historically a care authority could not place a child for fostering in any household except one that comprised a man and a woman living and acting jointly together, or a man or a woman living and acting alone (as per 1985 regulations). Same sex couples could not foster. Following a change in legislation and practice this developed over time to include unmarried and same sex couples.

- 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?**

**1930 – 1959**

There is no information held in our records that indicates the gender of other persons residing in the same house was of any relevance to the suitability of a foster parent.

**1960 -1979**

There is no information held in our records that indicates the gender of other persons residing in the same house was of any relevance to the suitability of a foster parent.

**1980 – 1989**

Records show that the gender of other persons living in the household was important and considered as part of the assessment and approval process and was considered relevant to the placement of a particular child with a foster carer.

**1990 – Onward**

Records indicate that every foster placement and approval was dependent on the current circumstances and considered the age/stage and development of the individual child and the carer's children, as well as room availability. This was subject to regular review and monitoring. Approval was at times dependent on the gender of the carer's own children, for example in 1995 a carer was only approved for boys as they had to share a bedroom with the foster carer's son.

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

**1930 -1959**

Our records do not contain information about the expectations of foster carers. Reference is made to foster carers being the "guardians" of children.

**1960 -1979**

Our records do not contain information about the expectations of foster carers other than an expectation that the foster carers would treat any child placed with them as if they were their own child.

In choosing a particular foster parent, the local authority, had a duty under s. 20 of the 1968 Act to treat the child's welfare as its first consideration. There was clear evidence in the foster carer's files that beyond accommodating them the authority supported a number of areas including education, medical and dental needs.

**1980 -1989**



Our records indicate that Partnership Agreements were used during this period. This document specified a number of requirements from foster carers, including the provision of a good standard of physical and emotional care; giving affection, building self-esteem, developing any special talents; behaviour management; encouraging participation in community activities; awareness of the child's cultural and racial background; and supporting the child with regards to their religious persuasion.

#### **1990 - Onward**

Our records indicate that foster carers are required to provide a good standard of physical and emotional care; nurturing, inclusive of family life, giving affection, building self-esteem, promoting special talents, supporting educational attainment and need, supporting parental/sibling contact, behaviour management, advocacy, encouraging participation in community and educational activities as well as promotion a child's cultural and racial background and religious persuasion.

#### **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?**

#### **1930 -1959**

In West Lothian County Council Committee minute's reference has been made to training and employment support for young people. This is in relation to young people who have been boarded out who are moving onto independence. We have not found any information in our records that indicates that children were expected to work manually in the placement or externally during this period.

The Children (Boarding-out etc.) (Scotland) Rules and Regulations 1947 did not prohibit children in foster carer working on their foster carer's crofts etc. but we have found no evidence in our records that indicates children in West Lothian worked on crofts etc.

#### **1960 -1979**

In our records reference has been made to training and employment support for young people. This is in relation to young people who have been boarded out who are moving onto independence. We have not found any information in our records that indicates that children were expected to work manually in the placement or externally during this period.

#### **1980 -1989**

We have not found any information in our records that indicates children were expected to work manually in the placement or externally during this period.

#### **1990 – Onward**

We have found no evidence in our records to indicate that children were expected to work in placement or externally during this period.

There is an expectation that children in placement will help with household chores in order to develop their independent living skills and experience family living.

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

**1930 -1959**

Our records do not contain any fostering agreements or reference to fostering agreements.

**1960 -1979**

There is some evidence of the use of fostering agreements being used during this period, mainly in the latter stages of the 1970's. Records indicate that was an agreement between West Lothian County Council and then Lothian Regional Council and the foster carer. Our records do not indicate how widely used these documents were.

**1980 - Onward**

Since the mid 1980's we have used a Partnership Agreement. These documents specify foster carer responsibilities towards children placed with them, our responsibilities for the child being placed and to the foster carers.

**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.**

In respect of 1.8 (ii) Foster Carers

- (a) Recruitment campaigns. Attendance at Preparation Training; home study completed with a supervising social worker from the fostering service.
- (b) Although there are no specific qualifications required, there is a competency-based assessment (Skills to Foster) that focuses on specific skills, knowledge and abilities that foster carers are expected to evidence. There is an ongoing requirement that foster carers undertake mandatory and in-house training once approved. From the late 1990's we have offered a variety of training to our foster carers, from Preparation Groups to approved foster carers completing their HNC/SQV with our support.
- (c) Protection Vulnerable Group (PVG) checks currently completed in respect of all foster carers revised every 2 years for approved foster carers. Foster carers have to undergo regular medical checks, every 2 years. Ex-partner, adult children and reference checks (including employer if appropriate) are completed during the assessment process but not during the review process.
- (d) All adults over 16yrs in the household have to complete a PVG. Partners residing at the foster carers home have to be assessed, including all relevant checks, PVG; medical; Local Authority; ex-partner; and/or adult children etc.

- (e) Anyone nominated by foster carers to help with child care/babysitting will have a PVG completed.
- (f) Health & Safety Risk Assessment of foster carers home is completed as part of the assessment process. This should be reviewed as part of annual review. Pet risk assessments are completed as part of the assessment process and should be reviewed at least annually or when new pet introduced into the foster carers home.
- (g) Careful consideration is given when considering approval to identify whose needs would be best met by the skills of foster carers and home environment.
- (h) Some West Lothian Council foster carers provide outreach to our children who are accommodated in foster placements; residential units; or at risk of becoming accommodated.
- (i) Children in our foster care are not required to work externally. Children are expected to undertake age and stage appropriate tasks in foster carers' homes to promote their independent living skills.
- (j) West Lothian Council has a specific foster carer (Partnership Agreement) that all approved foster carers must agree and sign.

## **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?**

##### **1930 -1959**

West Lothian County Borough Council Committee and Sub-committees provided the oversight for foster care provision during this period including the committee overseeing foster care placements. Records show that the committee was required to sit at least 4 times per year and required to have 3 women in attendance.

The main regulations that governed local authority foster care provision during this period included the Children and Young Persons (Scotland) Care and Training Regulations 1933 and the Children (Boarding-out etc.) (Scotland) Rules and Regulations 1947. They placed a number of duties on local authorities, including:

1. Ensuring the prospective foster carer was of "good character" and suitable to care for children requiring foster care;
2. That children would not be placed with anyone in receipt of poor relief and/or whose income was made mainly from fostering allowances;
3. That foster carers would treat any child placed with them as if they were their own;

4. That children in foster care would be provided with appropriate food; clothing; and footwear;
5. Access to medical and dental treatment if required;
6. The provision of appropriate accommodation, including limitations around the number of household members; and number of children in foster care;
7. Placed with a family of the same/or similar religious persuasion.

This is not an exhaustive list of the duties placed on local authorities but it does indicate certain standards and expectations in relation to foster care provision during this period.

There was a requirement that regular visits were made to children in foster care. This included a requirement that children would be seen in their foster care placement rather than elsewhere as the child and their placement was to be monitored. Reference is made in committee minutes to children being placed in foster care to allow mothers to have a holiday on their doctor's orders, indicating a culture of offering support to families in need.

Our committee minutes from this period indicate that financial contributions from parents was discussed and pursued, with reference being made to taking court action to recover funds. The ongoing responsibilities of parents towards their children regardless of where they resided and who had care of them was recognised.

#### **1960 – 1979**

Our records do not contain any specific evidence of the culture in relation to the provision of foster care during this period. The main legislation and regulations that informed foster care provision during this period were the Boarding-out of Children (Scotland) Regulations 1959 and the Social Work (Scotland) Act 1968. These regulations placed a number of duties on local authorities with regards to the provision of foster care, including;

- Ensuring the suitability of the foster carer;
- That children would not be placed with anyone in receipt of poor relief and/or whose income was made mainly from fostering allowances;
- That foster carers would treat any child placed with them as if they were their own;
- That children in foster care would be provided with appropriate food; clothing; and footwear;
- Access to medical and dental treatment if required;
- Suitability of the foster home/accommodation, including limitations around the number of children in foster care placed in the household;
- Placed with a family of the same/or similar religious persuasion.

This is not a complete list of the duties placed on local authorities but it does indicate certain standards and expectations in relation to foster care provision during this period.

Committee minutes from this period indicate that financial contributions from parents continued to be pursued. Parental contributions for the maintenance of their child in care were stipulated in the Social Work (Scotland) Act 1968 and placed a duty on

local authorities to recover these funds. This indicates an ongoing emphasis on the responsibilities of parents towards their children regardless of where they resided and who had care of them.

Our records indicate a use of Partnership Agreements in the latter part of this period. These documents were a contract between us and individual foster carers and specified what was expected of all parties. This includes the responsibility of foster carers to ensure children's safety and to meet their ongoing and long-term needs. The Partnership Agreement specifies the responsibilities we had to our foster carers including ongoing support, supervision and training.

Our records show that children in foster care had 'Child in Care' reviews during the latter part of this period, indicating a culture of monitoring a child's progress whilst they were in our care.

### **1980 -1989**

Our records for the period indicate that there was a significant shift to regulate the approval / registration of foster carers in line with legislation. Since 1983 our records show that we have used the BAAF Form F to assess foster carers and that this was a move towards a standardised way of assessing prospective foster carers. Our continued move towards the formalisation of foster care was further supported by the introduction of a Fostering Panel as specified in the Boarding-out and Fostering of Children (Scotland) Regulations 1985.

Our records show 'Child in Care' reviews for children in foster care were held, demonstrating that we were monitoring a child's progress and whether their needs were being met in their foster placements. Our records show that there was an expectation that reviews took place at least every 6 months.

The Partnership Agreement used during this period outlines the expectations of both the foster carer and the local authority. This agreement states the need for partnership working in order to achieve the best outcomes for children in foster care and specifies our responsibilities to support, supervise and offer training to foster carers.

The Community Care Scheme was developed with the initial aim of providing family experiences to young people who had been living in residential establishments or List D schools and prepare them for independent living. Our records indicate the use of specific Community Care Scheme Partnership Agreements. There was a specific panel to amend the approval of current foster carers so that they could care for children over the age of 12.

Prior to the introduction of the Boarding-out and Fostering of Children (Scotland) Regulations 1985 extended family members who cared for children appear from our records to have had a similar status to foster carers. The regulations specified that children placed with family members was regarded as a private family arrangement.

### **1990 – Onward**

Our current fostering model has been in place since the mid 1980's. The continued regulation of the fostering services has been incremental and in line with new

legislation, guidance and standards, such as the Fostering of Children (Scotland) Regulations 1996 which introduced annual reviews for foster carers. Over the years there has been an increased emphasis on safe caring and a focus on improving the attainment of children who are accommodated in foster care and an emphasis on trying to ensure that young people leave care with a positive destination.

West Lothian Council is committed to the placement of our looked after and accommodated children with our own foster carers where possible, should they be unable to live with their birth parents or relatives. We aim to provide high quality; effective child centred foster care in our community to improve outcomes for our children and young people.

In response to the Scottish Executive, **Learning with Care: The Education of Children Looked after Away from Home by Local Authorities in Scotland 2003** we were provided with funding to improve educational attainment for children who are looked after away from home. We used part of this money to purchase computers, internet access and software for all of our fostering households. We provided training to the children in placement and foster carers to ensure they felt confident in the use of the equipment.

Our Looked After Children Education Policy was written in response to this report resulting in all schools having a designated officer for looked after children. Our foster carers were supported and encouraged to develop a positive working relationship with the designated officer to support the child's education placement.

In 2006 the Senior Educational Psychologist with responsibility for Looked After Children developed the 'LAC Pack' for schools. She provided training for social workers and foster carers on attachment and the impact of trauma on children and individual consultation to foster carers.

In 2008, we appointed a Looked After Children Nurse in response to the Looked After Children – We Can & Must Do Better Report (2007) (Scottish Government). The 'LAC Nurse' joined the Looked After Children Team that was established in 2004. The team consisted of a Senior Educational Psychologist; 4 Outreach Teachers; a Public Health Nurse; and a Young Person's Development Worker. By employing a dedicated LAC Nurse, we were able to focus on improving health outcomes for children in our care. This included an initial health check for the young person when they came into care, and annual reviews. The LAC Nurse was able to offer advice and guidance to our foster carers on a variety of issues including self-esteem, anxiety, and sexual health.

Recognising the need for foster carers to manage challenging and difficult behaviour the council developed a policy for 'Care and Control in Foster Care' in 2002. The policy confirmed the council's approach to ensure all young people and their carers have the right to live in a safe caring environment, and for early intervention to ensure that crisis situations did not escalate. This document also made it clear that physical chastisement was unacceptable as a form of punishment.

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

**1930-1959**

Our records do not identify any specific policies and procedures in our records for this period. Committee minutes indicate an adherence to the relevant legislation and regulations of the time.

**1960 -1979**

Our records do not identify any specific policies and procedures in our records for this period. Committee minutes indicate an adherence to the relevant legislation and regulations of the time.

**1980 -1989**

Although our records do not provide significant evidence of policy, case files demonstrate the shift towards improving the standards and regulation of foster care during this period. Our records show a structured approach in the use of the BAAF Form F to assess prospective foster carers; the use of Partnership Agreements; the use of 'Child in Care' reviews, and the introduction of a Fostering Panel.

**1990 - Onward**

Our culture towards the end of this period is reflected in our policies, procedures and practice as laid out in the West Lothian Council Fostering Service Statement of Purpose.

**Main Policies and Procedures:**

- Accommodating Children (Initially introduced 2006)
- Reviews of Children Looked After Away from Home – Initial Planning Meeting (72hrs) (Initially introduced 2008)
- Reviews of Children Looked After Away from Home (6 weeks, 3months, and 6months) (Initially introduced 2006)
- Fostering Service (Initially introduced 2004)
- Approving Carers (Initially introduced 2004)
- Foster Carer Approval – Temporary Registration (initially introduced 2007)

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

We have limited evidence in our records between 1930 and 1979 that would demonstrate the culture of the organisation and the provision of foster care. West Lothian County Council and Lothian Regional Council Committee minutes show an adherence to the relevant legislation and regulations of the time.

Our records indicate that there has been a shift towards the formalisation of our foster care provision since the mid 1980's in line with the introduction of the Boarding-Out and Fostering of Children (Scotland) Regulations 1985 with records in later years more extensive.

**Did the provision of care by Foster Carers reflect the local authority's culture, policies and procedures?**

**1930 – 1959**

Our records do not contain any specific documents evidencing the culture, policies and procedures in relation to the provision of foster care.

West Lothian County Council Committee and relevant subcommittee minutes indicate an adherence to the Children (Boarding-out etc.) (Scotland) Rules and Regulations 1947 in relation to committee oversight of foster care including reference of statutory visits to children in foster care.

#### **1960 -1979**

Our records do not contain any specific documents evidencing the culture, policies and procedures in relation to the provision of foster care. There is evidence that indicates prospective foster carers were required to apply, were interviewed, had a home condition assessment and medical assessment completed. Our records demonstrate that we were regulating the approval/registration of foster carers during this period.

#### **1980 -1989**

Our records do not contain any specific documents evidencing the culture, policies and procedures in relation to the provision of foster care. Our records indicate a shift towards the formalisation foster care provision in line with the Boarding-Out and Fostering of Children (Scotland) Regulations 1985. This resulted in a standardised approach to assessing, approving and reviewing foster carers and the ongoing monitoring and reviewing of children in foster care to ensure their needs were being met.

#### **1990 - Onward**

There has been a continued move towards the further regulation of the fostering service since the mid 1980's. This has been gradual and in line with new legislation, guidance and standards. This includes the introduction of the Regulations of Care (Scotland) Act 2001, which resulted in the establishment of the Social Care & Social Work Improvement Scotland, an independent regulatory body overseeing fostering services. The West Lothian fostering service was registered in November 2005, and has been inspected regularly by SCSWIS / Care Inspectorate since.

The Regulations of Care (Scotland) Act 2001 introduced the National Care Standards (Foster Care and Family Placement Services) 2002 (Revised 2005) which is used to inform our fostering service practice.

West Lothian Council has a number of policies in place that underpin our fostering service, (see 4.4 n) which we continue to review and update in line with new legislation, regulations and guidance. For full details see West Lothian Council Fostering Service Statement of Purpose.

- d) 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?**

#### **1930 -1959**



There is no evidence in our records that indicate foster carers did not work in accordance with policies and procedures.

**1960 -1979**

There is no evidence in our records that indicate foster carers did not work in accordance with policies and procedures.

**1980 -1989**

There is no evidence in our records that indicate foster carers did not work in accordance with policies and procedures.

**1990 – Onward**

There is no evidence in our records that indicate foster carers did not work in accordance with policies and procedures.

**e) When and why did any changes in the culture of the local authority in relation to the provision of foster care come about?****1930 – 1959**

Our records do not indicate when and why there were any changes to the culture in relation to the provision of foster care. Our records do indicate an adherence to relevant legislation and regulations during this period, so it is likely that the introduction of the Care and Training Regulations 1933; Children (Boarding-out etc.) (Scotland) Rules and Regulations 1947; and the Children Act 1948 would have influenced the culture and practice.

**1960 - 1979**

Our records do not indicate when and why there were any changes to the culture in relation to the provision of foster care during this period. Our records do indicate an adherence to relevant legislation and regulations during this period, so it is likely that the Social Work (Scotland) Act 1968 and The Children's Act 1975 were drivers and are likely to have influenced the culture and practice.

**1980 – 1989**

It is likely that the Foster Children (Scotland) Act 1984; and the Boarding Out and Fostering Children Regulations 1985 were drivers during this period. Our records indicate the introduction of a Fostering Panel in line with the 1985 regulations. There is evidence that extended family members were no longer approved foster carers. This is thought to be a result of the 1985 regulations that specified that a child residing with extended family members was a private family arrangement.

**1990 – Onward**

Records show that the local authority has adopted changes in line with national legislation, regulations, guidance and standards. This includes the Children (Scotland) Act 1995; Fostering of Children (Scotland) Regulations 1996; Regulations of Care (Scotland) Act 2001; The Adoption and Children (Scotland) 2009; Looked After Children (Scotland) Regulations 2009; Children's Hearing (Scotland) Act 2011; Children and Young People (Scotland) Act 2014; and the Carers (Scotland) Act 2016.

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

**1930-1959**

Our records do not contain any evidence of changes to culture driven by internal influences, incidents, experiences or events.

**1960 -1979**

Our records do not contain any evidence of changes to culture driven by internal influences, incidents, experiences or events.

**1980 -1989**

Our records do not contain any evidence of changes to culture driven by internal influences, incidents, experiences or events.

**1990 – Onward**

Our records do not contain any evidence of changes to culture driven by internal influences, incidents, experiences or events.

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

Dennis O'Neill was a 12yr old child who died whilst in the care of foster carers for Newport County Borough Council. It was established via an inquest that he had died as a result of the wilful ill-treatment and neglect of his foster carers. Dennis's death was a driver in the implementation of the Children Act 1948, with new Boarding out Regulations introduced in Jan 1947.

These regulations placed a responsibility on all local authorities to establish a boarding out committee, responsible for sourcing suitable foster care and exercise supervision over all children in local authority foster care. The committee had to meet at least 3 times per year, and its composition required at least 3 women committee members. Our records indicate an adherence to these requirements.

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

Our records do not contain any specific evidence that directly links changes to the case mentioned above. (g)

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

**1930-1959**

Our records do not contain any evidence of changes to culture driven by external influences or factors.

**1960 -1979**

Our records do not contain any evidence of changes to culture driven by external influences or factors.

**1980 – 1989**

It is likely that the Foster Children (Scotland) Act 1984; and the Boarding Out and Fostering Children Regulations 1985 were drivers during this period. Our records indicate the introduction of a Fostering Panel in line with the 1985 regulations. There is some indication that extended family members were no longer approved foster carers as the 1985 regulations specified that a child residing with extended family members was a private family arrangement. We began using the BAAF Form F to standardise the assessment of prospective foster carers during this time.

**1990 - Onward**

It was evident in our records that the local authority adopted such cultural changes in line with legislation, regulations, guidance and standards. This includes the Children (Scotland) Act 1995; Fostering of Children (Scotland) Regulations 1996; Regulations of Care (Scotland) Act 2001; The Adoption and Children (Scotland) 2009; Looked After Children (Scotland) Regulations 2009; Children's Hearing (Scotland) Act 2011; Children and Young People (Scotland) Act 2014; and the Carers (Scotland) Act 2016. The 1995 Act for example placed a statutory responsibility on us to obtain the views of children; facilitate contact between the child and their parents; and assist young people leaving care up to the age of 21.

Our committee minutes from 2002 discuss the Fife Report – An Inquiry into Historical Abuse in Fife, which referred to the Kent Report 1997. We introduced a number of new processes on consideration of these findings. This included the need to adopt a Safer Recruitment Tool Kit in relation to foster carer recruitment and assessment.

Committee minutes from 2004 quote the Caleb Ness Inquiry as an example of the need for local agencies to demonstrate a commitment to information sharing. West Lothian Council established a Shared Information Project with the aim of improving the quality and integration of services including for Looked After Children.

In 2005, the recommendations from the Social Work Inspection Agency (SWIA) report "An Inspection into the Care and Protection of children in Eilean Siar" were discussed at committee. One of the recommendations related to training, including for the foster carers' own children, and committee was advised that this was already in operation in West Lothian.

**Present**

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

Yes, we continue to be influenced by new legislation, regulations and guidance.

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

We change our policies, procedures and practice in line with the introduction of new legislation, regulations and guidance e.g. the Foster Carer Smoking Policy.

- l) 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 deaths and subsequent serious or significant case reviews of a number of children (national cases) have contributed to and/or resulted in the adoption of a number of current policies; procedures and/or practices for our fostering service. For example, the Bichard Inquiry (2004) informed the (PVG) Protection of Vulnerable Groups (Scotland) Act 2007, with all of our foster carers requiring to be checked when initially applying for approval and then at least every 3 years.

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

#### **Past**

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

##### **1930 -1959**

Our records indicate that the West Lothian County Council Committee; Children's Sub Committee; Chief Public Assistance Officer and Children's Officer held responsibility for foster carers during this period. The records indicate that West Lothian County Council's Committee was the most senior body in West Lothian during this period.

##### **1960 -1975**

Our records indicate that the West Lothian County Council Committee held overarching responsibility for foster carers during this period.

##### **1975 – 1996**

Our records indicate that the Lothian Regional Council Committee held overarching responsibility for foster carers during this period. Some of our records make mention of Lothian Regional Council's Social Work Director, but do not specify where this role was placed in the structure of the council. Our records refer to the Divisional Director of Social Work in West Lothian having responsibility for overseeing the fostering panel and ratifying its recommendations.

##### **1996 - Onward**

Our fostering service was registered with the Care Inspectorate in November 2005. The fostering service structure has remained very similar during this period. Our current service structure is as follows:

- Chief Social Work Officer/Head of Social Policy
- Senior Manager, Children's Services
- Group Manager, Looked After Children's Services
- Team Manager/Registered Manager, Family Placement Service
- 11 Supervising Social Workers (8.4 full time equivalent)
- 3 Business Support Staff

The Team Manager/Registered Manager is registered with the Care Inspectorate and is responsible for the day to day management of the fostering service and ensuring compliance.

There are 2 Senior Managers in Children's Services in West Lothian. Both Senior Managers have Agency Decision Maker (ADM) status.

The fostering service has remained a dedicated, specialist service during any service restructures, with clear lines of reporting through the children and families' management team and to corporate decision-making groups.

Approval of policy and procedure in relation to foster care is part of the council's governance arrangements including policy development and scrutiny panels and the council executive. Examples of committee reports are cited throughout our response. Examples have been found of the council responding to consultations on legislation and to the National Foster Care Review in March 2014.

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

**1930 -1959**

Our records indicate that West Lothian County Council's Committee had oversight of the Chief Public Assistance Officer and Children's Officer during this period.

**1960 -1979**

Our records do not provide any definitive statements about the oversight and supervision arrangements by senior management during this time. The Social Work (Scotland) 1968 Act does refer to the supervision and inspection of children in placement and carers providing placements.

**1980 -1989**

Our Partnership Agreement states that foster carers should receive support and supervision. Evidence in foster carer files indicate that foster carers were visited regularly by their social workers, support and guidance was offered or issues raised were dealt with.

**1990 - Onward**

Supervising social workers are responsible for general oversight and supervision of approved foster carers. They are responsible for assessing prospective foster carers and reviewing their ongoing suitability.

The Team Manager/Registered Manager is responsible for oversight of the fostering service, staff and foster carers. They provide supervision to supervising social workers.

The Group Manager is the direct line manager for the Team Manager/Registered Manager and so on.

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

**1930 -1959**

West Lothian County Council's Committee appears to have had overarching accountability during this period.

**1960 -1975**

Our records show that West Lothian County Council's Committee had overarching responsibility during this period.

Following the implementation of the Social Work (Scotland) Act 1968 the local authority appointed a professionally qualified Director of Social Work. The overall objective of the Director of Social Work post was to ensure the provision of effective, professional advice to elected members and officers in the authority's provision of social work services.

**1975 - 1996**

The Divisional Director of Social Work in West Lothian reported to Lothian Region's Director of Social Work.

**1996 – Onward**

The Team/Registered Manager has day to day responsibility for the management of the fostering service. The Group Manager – Looked After Children is the line manager of the Team/Registered Manager.

Senior Managers both have Agency Decision Making Responsibilities, with one having Senior Manager Responsibility for Looked After Children Services, including the fostering service.

Senior Managers report to the Head of Social Policy (who also has the role of Chief Social Work Officer). She in turn reports to the Director of the Health and Social Care Partnership who reports to the Council's Chief Executive.

**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?**

**1930 -1959**

Information from our records indicates that West Lothian County Council Committee held senior management/corporate/organisational responsibility in relation to children in foster care during this period. The information in our records during this period is limited. Reference is made to the appointment of Children's Officers and an assistant to the Chief Public Assistance Officer in committee minutes.

**1960 -1975**

Our records show that West Lothian County Council's Committee had overarching responsibility during this period. Following the implementation of the Social Work (Scotland) Act 1968 the local authority appointed a professionally qualified Director of Social Work but we do not know where this role sat in the council's structure.

**1975 - 1996**

Reference is made to Lothian Region Council's Social Work Director but our records do not identify where this role sat in the structure of the council or how this role and function reported in to a committee.

**1990 – Onward**

The Team/Registered Manager has day to day responsibility for the management of the fostering service. The Group Manager – Looked After Children is the line manager of the Team/Registered Manager.

Senior Managers both have Agency Decision Making Responsibilities, with one having Senior Manager Responsibility for Looked After Children Services, including the fostering service.

Senior Managers report to the Head of Social Policy (who also has the role of Chief Social Work Officer). She in turn reports to the Director of the Health and Social Care Partnership who reports to the Council's Chief Executive.

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

**1930 -1959**

Information from our records indicates that West Lothian County Council Committee and the Children's Sub-committee made all decisions about policies; procedures and practice in relation to foster care during this period. The information available focusses primarily on the setting and payment of boarding out allowances.

**1960 - 1975**

Information from our records indicates that West Lothian County Council Committee made decisions about policies; procedures and practice in relation to foster care during this period. The information available focusses primarily on the setting and payment of boarding out allowances.

**1975 – 1996**

Information from our records indicates that Lothian Regional Council Committee made decisions about policies; procedures and practice in relation to foster care during this period. The information available focusses primarily on the setting and payment of boarding out allowances.

**1996 – Onward**

Policies and procedures are designed by officers in Social Policy (in conjunction with foster carers and children where appropriate) before progressing through the council's corporate governance structure including the Social Policy – Policy Development and Scrutiny Panel and the Council Executive.

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

**1930 -1959**

From the information available in our records, foster carers were accountable to West Lothian Council's Committee; Children's Sub-committee; Chief Public Assistance Officer; and Children's Officer.

**1960 -1975**

From the information available in our records foster carers were accountable to West Lothian Council's Committee and the Children's Department during this period.

**1975 -1996**

From the information available in our records foster carers were accountable to supervising social workers reporting through the Divisional Director to Lothian Regional Council's Social Work Committee.

**1996 – Onward**

Foster Carers were initially accountable to the supervising social worker then through the management structure outlined above. Since 1996 foster carers have been accountable to the fostering panel which holds responsibility for the monitoring, reviewing and registration of all foster carers.

- 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?**

**1930 -1959**

Our records indicate that the Children's Officer and Chief Public Assistance Officer had some responsibilities for boarded out children and that the committee had overarching responsibility.

**1960 -1975**

Our records do not contain any specific policies and procedure, other than statements about boarding out fees. It does appear from our records that West Lothian County Council Committee held the overarching responsibility.

**1975 - 1996**

The Director of Social Work, Lothian Regional Council.

**1996 – Onward**

Since 2005 the Fostering Service Team/Registered Manager has had responsibility for the day to day management of the fostering service and raising any policy and compliance issues with the senior manager.

Policies and procedures are designed by officers in Social Policy (in conjunction with foster carers and children where appropriate) before progressing through the council's corporate governance structure including the Social Policy – Policy Development and Scrutiny Panel and the Council Executive.

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

**1930 – 1959**

Our records do not indicate that there was a fostering panel during this period. From our records West Lothian County Council's Committee and Children's Sub-Committee made decisions about boarded out children.

**1960 -1979**



Our records do not indicate that there was a fostering panel during this period. The record shows that prospective foster carers went through an application process and were interviewed but our records do not establish who agreed their approval/registration.

#### **1980 -1989**

Our records indicate that there was a fostering panel during this period. The records show that prospective foster carers went through an application process and were interviewed and that their approval was ratified by the Divisional Director of Social Work.

#### **1990 - Onward**

During the early stage of this period the fostering panel was accountable to the Social Policy Senior Management Team. Since the introduction of the Looked After Children (Scotland) Regulations 2009, 2 Senior Managers have the role of Agency Decision Maker.

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

#### **1930 -1959**

Our records do not indicate that a fostering panel was in place during this time, and that West Lothian County Council's Committee and Children's Sub-committee had oversight of boarding out placements and funding.

#### **1960 -1975**

Our records do not indicate that a fostering panel was in place during this time. The records indicate that West Lothian County Council Committee is likely to have had oversight of the approval/registration of foster carers during this period.

#### **1975 -1996**

Our records indicate that a fostering panel was in place during most of this time but do not detail the supervision arrangements of foster carers. The records indicate that the Divisional Director of Social Work had oversight of fostering panels during this period.

#### **1996 – Onward**

Since the registration of our Fostering Service in November 2005, the Team/Registered Manager has had responsibility for supervising the Panel Chair, with the Team/Registered Manager and Panel Chair having joint responsibility to supervise the other panel members. This oversight and supervision are only in relation to their panel membership.

In turn, the Group Manager, Senior Managers (ADM); and Head of Social Policy have line management responsibility.

#### **Present**

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

No

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

Not applicable

### **2.3 External Oversight**

#### **Past**

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

##### **1930 -1959**

Our records do not identify any specific professionals from external agencies that visited boarded out children. West Lothian Council's Children's Committee minute states that discussions were held with the Scottish Home Department (Scottish Office) about the appointment of a Children's Officer in the Children's Department.

##### **1960 – 1975**

Records indicate annual reviews undertaken by the inspector and that this role was reviewed by the Committee for Children's Services on a regular basis.

##### **1975 - 1996**

We are aware through organisational knowledge that Edinburgh & Lothians Registration and Inspection Services (ELRIS) had external oversight of the foster care service. The City of Edinburgh Council may hold information about the role and remit of ELRIS.

##### **1996 - Onward**

The Regulation of Care (Scotland) Act 2001 led to the establishment of the Scottish Commission for the Regulation of Care and provided external oversight of West Lothian Council's fostering service between 2002 and 2011. West Lothian Council Fostering Services was registered with SCCWIS in November 2005, with inspections taking place generally every year. From 1st April 2011, external oversight of West Lothian Council's fostering service has been carried out initially by SCSWIS, later known as the Care Inspectorate.

Since 2005, West Lothian Council's fostering service has been scrutinised by the previously mentioned agencies via annual inspections and through our complaints procedures. Both methods are used to monitor the quality of the fostering service, with inspections resulting in a graded inspection report with recommendations and requirements. Similarly, complaints about the fostering service, if upheld can result in recommendations and requirements. In exceptional circumstances enforcement notices can be placed on local authorities. West Lothian Council fostering services have not been subject to any enforcement notices.

In response to the National Care Standards – Foster Care and Family Placement Services 2005, the inspection model was changed and inspections focused on 4 key themes, care & support; environment; staffing; management and leadership. West Lothian Council's fostering services continues to be inspected annually.

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

**1930-1959**

Information from West Lothian County Council Children's Committee; Finance Committee; and Public Assistance Committee minutes state that the Chief Public Assistance Officer for the West Lothian County Council visited all boarded-out children. Our records do not state the purpose of these visits.

**1960 – 1975**

We have no information

**1975 - 1996**

During the time of Lothian Regional Council ELRIS had responsibility for foster care inspections. The City of Edinburgh Council may hold more information.

**1996 – onward**

Since West Lothian Council registered its fostering service in November 2005 annual inspections have been carried out by an appointed inspector on behalf of the previously mentioned agencies. As a registered fostering service, West Lothian Council has a responsibility to ensure compliance with relevant legislation, regulations and standards.

The purpose of these inspections is to provide independent oversight and scrutiny of West Lothian Council's fostering service with a focus on the 4 key themes, care & support; environment; staffing; management and leadership. Inspectors provide feedback on the compliance and functioning of West Lothian Council's fostering service along with advice; guidance and the sharing of good practice to support us provide high quality care in line with relevant legislation, regulations, standards and guidance.

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

**1930 - 1975**

Our records contain no information on this topic.

**1975 - 1996**

Our records contain no information on this topic. As West Lothian was part of Lothian Regional Council the City of Edinburgh Council may have this information.

**1996 - Onward**

Since we registered our Fostering Service in November 2005, we have been inspected 11 times.

**d) What did these visits involve in practice?****1930 -1959**

Our records do not contain any evidence of any visits from external bodies.

**1960 – 1975**

Our records do not contain any evidence of any visits from external bodies.

**1975 – 1996**

Our records do not contain any evidence of any visits from external bodies.

**1990 - Onward**

Since 2005 the purpose of external inspections is to provide independent oversight and scrutiny of West Lothian Council's fostering service with a focus on the 4 key themes, care & support; environment; staffing; management & leadership. Inspectors provide feedback on the compliance and functioning of West Lothian Council's fostering service along with advice; guidance and the sharing of good practice to support us provide high quality care in line with relevant legislation, regulations, standards and guidance. West Lothian Council in turn uses the feedback/inspection report to develop an annual action plan to support the ongoing development of the fostering service.

**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.**

Not applicable

**Part B – Current Statement****3. Retrospective Acknowledgement/Admission****3.1 Acknowledgement of Abuse****a) Does the local authority accept that between 1930 and 17 December 2014 any children cared for in foster care were abused?**

Yes

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

There are over 50 years (1930 – 1984) with no recorded references to abuse or allegations/complaints of abuse. From 1984 details of the allegations/complaints and

our response are recorded in Appendix 2. We think it is extremely unlikely that for over 50 years no child was abused in foster care or made an allegation or complaint of abuse. However, without that information it is impossible to assess the extent and scale of the abuse from 1930 – 17 December 2014.

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

The local authority has reviewed all of the 7,751 available records from 1930 to 2014. Between 1930 and 1984 the available records contained no reference to abuse or allegations/complaints of abuse. From 1984 records detailed abuse and allegations/complaints of abuse.

**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?**

No. Between 1930 and 1984 the available records contain no reference to abuse or allegations/complaints of abuse. From the 1980's to 17 December 2014 there is evidence that systems were in place to protect children and ensure that foster carers were appropriate people for the task. There is no evidence that relevant legislation, guidance and regulations were not adhered to during this period or that there was systemic failure.

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

There is no evidence of systemic failure.

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

There is no evidence of systemic failure.

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

There is no evidence of systemic failure.

**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?**

Between 1930 – 1984 there is no record of any allegations or complaints of abuse, which may be regarded as a failure to respond (or a failure to record) as it is unlikely that there were no complaints or allegations of abuse during this time. From 1984 – 2014 there is evidence of responses to abuse and allegations of abuse. Decisions made were on the basis of assessment of the known circumstances at the time. There is no information that suggests abuse or allegations of abuse were not taken seriously or not responded to.

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

Between 1930 – 1984 there is no record of any allegations or complaints of abuse, which may be regarded as a failure to respond, or a failure to record, or an indication that some records were destroyed, as it is unlikely that there was no abuse or complaints/allegations of abuse during this time.

From 1984 – 2014 there is evidence of responses to abuse and allegations of abuse. Decisions made were on the basis of assessment of the known circumstances at the time. There is no information that suggests abuse or allegations of abuse were not taken seriously or responded to.

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

The local authority has reviewed all available records from 1930 to 17 December 2014. Between 1930 and 1984 no record of allegations or complaints of abuse were found. From 1984 records of allegations and complaints of abuse were found.

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

We have no explanation for the lack of recorded abuse or allegations/complaints of abuse prior to 1984, we can only surmise that records may have been legitimately destroyed or recording practices were not of the standard required today.

### **3.4 Changes**

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

The local authority has not implemented changes to its policies, procedures and practice as a result of any acknowledgment in relation to 3.1 – 3.3 above. Policies and procedures are updated with changes of legislation or practice. There are expectations and standards of information recording and retention.

## **Part C - Prevention and Identification**

### **4. Policy and Practice**

#### **4.1 National**

##### **Past**

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

Yes, there was national policy/guidance evidenced throughout the decades. This included the National Foster Care Association 'Guide for social workers on

competency assessments (2000)'; For Scotland's Children (2001); Getting It Right for Every Child (GIRFEC) (2005); the Fostering Network 'Skills to foster assessment (2010)'; the Scottish Government / Fostering Network 'Managing allegations against foster carers and approved kinship carers – How agencies should respond (2013)'.

Additional national strategy and policy referenced during strategic planning and service development in West Lothian included the Curriculum for Excellence; More Choices More Chances; The Road to Recovery: A new approach to Tackling Scotland's Drug Problem; These are our Bairns; Looked After Children: We can and must do better; Sweet 16; and Hidden Harm, next steps.

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

There is evidence throughout the case files that the local authority followed national and statutory guidance.

**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)

Throughout the committee reports from 1930 to 1975 there is evidence that the local authority was aware of national policy and guidance. For example, the Boarding out of Children (Scotland) Regulations 1959 required that prior to a child being brought into care, the Local Authority should arrange for the child to be medically examined to determine his/her bodily and mental health, his fitness to be boarded out, and whether he was free from infection. Examples were found in our records where committee agreed that a full medical assessment was required for every child. The Children's Act 1975 brought about further change with the introduction of boarding out regulations in 1985. There is evidence in our records that confirm this guidance was followed.

ii. The child's views

There is limited evidence from our records of how children's views were sought prior to the 1980's. Although no consistent method was obvious, evidence was seen of allocated social workers obtaining the child's views. This changed with the implementation of The Children (Scotland), Act 1995 and guidance (1997) and the need for a child's views to be considered where practicable. Evidence in our records from the 1990's onwards shows a range of methods such as direct discussion with the child, via the foster carer, social worker, and at annual reviews of foster carers.

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

There is limited evidence from our records that tell us that a child's continued residence was regularly reviewed up to the 1980's. Following the implementation of 'Looking After Children in Scotland: Good Parenting, Good Outcomes' and the introduction of the Looked After Children's Review (LAC) there is strong evidence to support that the local authority has consistently reviewed a child(s) continued

residence throughout their foster care placement. Looked after reviews take place at 6-weeks, 3-months, and every 6 months thereafter (annually if the carer holds parental rights granted by a Permanence Order.)

#### iv. Child protection

Our records do not contain details of specific policies and procedures in earlier decades. From the 1980's onwards there is clear evidence in the case files that the local authority was adhering to child protection guidance or procedures.

#### v. Discipline

The Physical Punishment of Children in Scotland consultation document acknowledged that there were more effective and preferable means of disciplining children, "parents shall continue to use physical punishment on children as that reflected current public opinion". West Lothian Council's position is that foster carers cannot not and should not physically discipline a child. Please see section 4.3 (children) for further information.

#### vi. Complaints handling

West Lothian Council has a complaints procedure, available to all children/young people, parents and foster carers. A guide to making compliments and complaints is available for children who are placed with foster carers. Children/young people are able to access an independent advocacy service.

#### vii. Whistleblowing

There is no evidence of a Whistleblowing Policy until 2000, revised in 2014.

#### viii. Record retention

The keeping of record retention is underpinned by the Foster Children (Scotland) Act 1984, s. 9 (1). West Lothian Council's Record Management Unit was established in 1996 to provide archive and records management services for and on behalf of West Lothian Council. West Lothian Council Record Management unit began accepting records management consignments from service areas in March 1996. An Archive Retention Management System (ARMS) Report written in 2000 stated that all service units deposit at the records centre, except Social Work. Social Care was responsible for the development and implementation of Social Work retention policies and procedures and for the physical management of files. Social Policy began sending records to the records management unit in April 2004.

West Lothian Council initially developed a Records Management Policy which was approved by Council Executive on the 23 December 2008. This policy established



principles for the management of all council records. The Policy has been regularly reviewed and in 2019 the policy was replaced by an Information Governance Policy.

The council established Records Retention Schedules in 2013. The schedules were adapted from the Scottish Council for Archives Records Retention Schedules. These detail record series relating to foster care records and the applicable disposal rules. Retention schedules are reviewed on a regular basis. There have been minor changes to the schedules over the period.

Please see inventory WLC005, WLC006, WLC007.

ix. Recruitment and training of foster carers

Please refer to section 1.8 (ii) and 4.4 (i) and (ii).

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

Our records have not evidenced anything that required employers to divulge details of complaints in relation to prospective foster carers to the local authority.

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

Not Applicable

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

Not Applicable

**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?**

No.

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

Not Applicable

**4.2 Local Authority**

**(i) Policy**

**Past**

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

**1930 - 1959**

Our records do not include specific policies from this period. Our records, primarily West Lothian County Council Committee minutes, refer to placement with family members under a foster care arrangement rather than "with strangers", and that foster care was preferable to institutional care.

Records show that parents were expected to make financial contributions towards the maintenance of children in care.

Committee minutes refer to boarded out children being visited regularly by the children's officer and an "inspector".

As per the Children (Boarding-out etc.) (Scotland) Rules and Regulations 1947 our records indicate that the committee that had oversight of foster care was held regularly (at least three monthly) and that there were at least 3 female committee members. There is no record of a specific policy stating this.

**1960 -1975**

We have no copies of policies or guidance. Committee minutes indicate that financial contributions were sought from parents whose children were in care.

**1975 - 1996**

Between 1975 and 1996 West Lothian was part of Lothian Regional Council and it is likely that any policies and procedures are currently held in the City of Edinburgh Council archives.

**1996 - Onward**

We have a number of policies from mid/early 2000's, including Fostering Service (which includes panel constitution and functioning; approval; appeals.); Approving Carers; Payments to Foster Carers; Children in Foster Care, Holiday Allowances/Additional Payment etc.).

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

We have a number of policies from mid/early 2000's, including Fostering Service (which includes panel constitution and functioning; approval; appeals.); Approving Carers; Payments to Foster Carers; Children in Foster Care, Holiday Allowances/Additional Payment etc.).

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

**1930 -1959**

Our records do not contain any specific policies and procedures for this period.

**1960 - 1975**

Our records do not contain any specific policies and procedures for this period.

**1975 - 1996**

Between 1975 and 1996 West Lothian was part of Lothian Regional Council and it is likely that any policies and procedures are currently held in the City of Edinburgh Council archives.

**1996 - Onward**

Policies and procedures from 2000 onward are stored on our internal intranet.

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

- i. Child welfare (physical and emotional)

**1930 -1959**

Our records do not contain any specific policies and procedures for this period.

**1960 -1975**

Our records do not contain any specific policies and procedures for this period.

**1975 - 1996**

Between 1975 and 1996 West Lothian was part of Lothian Regional Council and it is likely that any policies and procedures are currently held in the City of Edinburgh Council archives.

**1996 onwards**

We do not have any specific policies or procedures other than Child Protection Procedures. Practice is dictated by current legislation; national guidance and regulations.

- ii. The child's views

**1930 - 1959**

Our records do not to identify how the views of children in our foster care were obtained during this period.

**1960 - 1975**

Our records do not to identify how the views of children in our foster care were obtained during this period.

**1975 - 1996**

West Lothian was part of Lothian Regional Council and any policies and procedures may be available from the City of Edinburgh Council.

**1996 - Onward**

We do not have any specific policies or procedures related to obtaining the views of children. Practice is dictated by current legislation; national guidance and regulations.

- iii. Placement of siblings

**1930 -1959**

Our records do not contain any specific policies and procedures for this period. The Children and Young Persons (Scotland) Care and Training Regulations 1933 referred to the desirability of placing siblings together and Section C of the Boarding Out of Children (Scotland) Regulations 1959 emphasised that siblings should be boarded out together where practical. There is nothing to suggest that we did not conform to legislation, national guidance or regulations during this period.

**1960 - 1975**

We have not found any evidence of specific policies and procedures regarding the placement of siblings. There is nothing to suggest that we did not conform to legislation, national guidance or regulations during this period.

**1975 - 1996**

Between 1975 and 1996 West Lothian was part of Lothian Regional Council and the City of Edinburgh Council may hold information about policies and procedures.

**1996 - Onward**

We have not found any specific policies and procedures regarding the placement of siblings.

iv. The placement of a child in foster care

We have not found any specific policies and procedures about the placement of a child in foster care. There is nothing to suggest that we did not conform to legislation, national guidance or regulations at any time since 1930.

v. The particular placement of a child with foster carers

We have not found any specific policies and procedures about the placement of a child with foster carers. There is nothing to suggest that we did not conform to legislation, national guidance or regulations at any time since 1930.

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

We have not found any specific policies and procedures about contact between a child in foster care and his/her family. There is nothing to suggest that we did not conform to legislation, national guidance or regulations at any time since 1930.

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

We have not found any specific policies and procedures about contact between a child in foster care and other siblings in foster care. There is nothing to suggest that we did not conform to legislation, national guidance or regulations at any time since 1930.

viii. Information sharing with the child's family

We have not found any specific policies and procedures about information sharing with the child's family until 1996 when guidance for foster carers about sharing information was included in the foster carer handbook.

- ix. Fostering panels (including constitution, remit, frequency and record keeping)

The Boarding-Out and Fostering of Children (Scotland) Regulations 1985 required care authorities to establish fostering panels.

#### **1975 -1996**

Between 1975 and 1996 West Lothian was part of Lothian Regional Council. This information may be available from the City of Edinburgh Council.

#### **1996 - Onward**

We have three specific policies in place about Fostering Panel Composition and Functioning, including Fostering Service (initially introduced 2004); Approving Foster Carers (initially introduced 2004); Foster Carer Approval – Temporary Requirements (initially introduced in 2007

- x. Recruitment and Training of foster carers

#### **1930 -1959**

We have not found any specific policies and procedures about the recruitment and training of foster carers

#### **1960 - 1975**

We have not found any specific policies and procedures about the recruitment and training of foster carers

#### **1975 -1996**

Between 1975 and 1996 West Lothian was part of Lothian Regional Council. This information may be available from the City of Edinburgh Council.

#### **1996 – Onward**

We have not found any specific policies and about the recruitment and training of foster carers

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

We have not found any specific policies and procedures requiring employers to divulge details of complaints in relation to prospective foster carers to the local authority

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

We have not found any specific policies and procedures about reviewing a child's continued residence in foster carer. There is nothing to suggest that we did not conform to legislation, national guidance or regulations at any time

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

We have not found any specific policies and procedures about visits to a foster care placement. There is nothing to suggest that we did not conform to legislation, national guidance or regulations at any time

- xiv. Transfer of a child from one foster placement to another  
(Including preparation and support)

We have not found any specific policies and procedures about transferring a child from one foster placement to another. There is nothing to suggest that we did not conform to legislation, national guidance or regulations at any time

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

We have not found any specific policies and procedures about transferring a child between foster care and residential care. There is nothing to suggest that we did not conform to legislation, national guidance or regulations at any time

- xvi. Child protection

#### **1930 – 1975**

Our records do not contain historical child protection policies and/or procedures.

#### **1975 – 1996**

Professional knowledge indicates that child protection guidance and procedures have been in place since the 1980's. Between 1975 and 1996 West Lothian was part of Lothian Regional Council and these policies and procedures may be available from the City of Edinburgh Council.

#### **1996 – onward**

Specific child protection guidance and then procedures have been in place.

- xvii. Complaints handling

Please refer to section 4.7(i)(a).

In 2014, West Lothian Council moved from a separate Social Work Complaints Review Committee and now all complaints are addressed by our Complaints Procedure.

There is a specific guide re complaints for children and young people who are placed with foster carers. Children and young people are able to access an independent advocacy service should they wish and can be supported to do so.

West Lothian Council Fostering Service Statement of Purpose (last updated in October 2019) provides information about our complaints procedure including information about the Care Inspectorate, to whom complaints can also be made.

xviii. Whistleblowing

There is no evidence of a Whistleblowing Policy prior to 2000. In line with legislation (The Public Interest Disclosure act 1998) West Lothian Council produced a Whistleblowing Policy in 2000, further revised in 2014.

xix. Record retention

We have not found any specific policies and procedures about record retention prior to the 2000's. (Between 1975 and 1996 West Lothian was part of Lothian Regional Council and it is likely that any policies and procedures are held in the City of Edinburgh Council archives.)

West Lothian Council developed a Records Management Policy in 2008. This policy established principles for the management of all council records. The Policy has been regularly reviewed and updated.

The council established Records Retention Schedules in 2013. The schedules were adapted from the Scottish Council for Archives Records Retention Schedules.

**e) Who compiled the policies and/or procedures?**

**1930 -1959**

Our records do not identify who compiled policies and procedures.

**1960 -1975**

Our records do not identify who compiled policies and procedures.

**1975 -1996**

Between 1975 and 1996 West Lothian was part of Lothian Regional Council and any records indicating who compiled policies and procedures may be available from the City of Edinburgh Council.

**1990 - Onward**

Policies and procedures are compiled by officers in Social Policy before progressing through the council's corporate governance process.

**f) When were the policies and/or procedures put in place?**

Our records do not identify when policies and procedures were put in place until the 2000's.

**g) Were such policies and/or practices reviewed?**

Our records do not identify when policies and procedures were reviewed. It is clear from files that practice changed and developed over the years as legislation, national guidance and regulations changed.

**h) If so, what was the reason for review?**

Changes in legislation, national guidance and regulations.

**i) What substantive changes, if any, were made to the policies and/or procedures over time?**

Over time recruitment and assessment of foster carers became formalised and the number of checks on prospective foster carers, household members and foster carer's friends/family babysitting increased.

Fostering panels were established with responsibility to recommend approval and review foster carers.

The Fostering Service became a registered service subject to external inspection.

**j) Why were changes made?**

Changes in policy and practice were made in response to changes in legislation, national guidance and regulations.

**k) Were changes documented?**

Our records do not contain documented changes to policies and procedures. Between 1975 and 1996 West Lothian was part of Lothian Regional Council and any documented changes may be available from the City of Edinburgh Council.

**l) Was there an audit trail?**

Not until the recent introduction of software which enables an audit trail.

**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.**

Our current policies and procedures are stored on the council's intranet and the recent introduction of software enables an audit trail.

**4.2 Local Authority**

**(ii) Practice**

**Past**



**a) Did the local authority adhere in practice to its policy/procedures in relation to the provision of foster care?**

**1930 – 1959**

Records indicate that the committee had oversight of foster placements and met at least 4 times per year; the relevant committee constitution included 3 women; and statutory visits were completed as stipulated in the Children (Boarding-out etc.) (Scotland) Rules and Regulations 1947. Records indicate that it was practice during this period to place children with foster carers rather than in institutions and with extended family members rather than “strangers”.

Our records show that financial contributions from parents for the maintenance of their children in foster care was sought by the Council and legal action was taken if parents did not pay.

West Lothian County Council Committee minutes indicate discussions about statutory visits/inspections.

**1960 -1979**

Committee minutes from this period indicate that parents were expected to contribute to the maintenance of children in foster care and that parental contributions were sought and pursued in line with The Social Work (Scotland) Act 1968.

Minutes indicate that all boarded out children were discussed by committee on an ongoing basis.

**1980 -1989**

Our records indicate a move towards the formalisation of assessment and approval of foster carers. We have used the BAAF Form F since 1983. This document has been used consistently since its introduction.

Records evidence that it was standard practice to review children’s placements in foster care and that reviews of foster care placements and the continued approval of foster cares took place.

Partnership Agreements were introduced during this period clearly outlining the agreement between us and the foster carer in terms of the expectations of the fostering task and our responsibility to provide training, support and supervision for foster carers.

**1990 - Onward**

Our current foster care service is based on the model established in the mid 1980’s. This model has been modified in response to changes in legislation, regulations and standards. The current service design reflects the Children (Scotland) Act 1995; Fostering of Children (Scotland) Regulations 1996; The Regulation of Care (Scotland) Act 2001; The Adoption (Scotland) Act 2007; Looked After Children (Scotland) Regulations 2009; Children’s Hearing (Scotland) Act 2011; Children and Young People (Scotland) Act 2014; and the National Care Standards (Foster Care and Family Placement Services) 2005.

In line with the Regulation of Care (Scotland) Act 2001, our Fostering Service is now registered and inspected regularly by the Care Inspectorate.

Records evidence clear recruitment, approval and review processes for foster carers. There is evidence of ongoing supervision, support and training for foster carers. There is evidence that child protection procedures were followed, child care reviews and the views of children being sought.

**b) Did the local authority adhere in practice to its policy/procedures on the following:**

- i. Child welfare (physical and emotional)

**1930 - 1959**

West Lothian County Borough Committee minutes indicate that visits to children in foster care took place. Records indicate that children were “assumed” into the care of West Lothian County Borough Council because of concerns about their safety and wellbeing.

During this period the main legislation and guidance underpinning the provision of foster care included the Children and Young Person (Scotland) Care and Training Regulations 1933 and the Children (Boarding-out etc.) Scotland Rules and Regulations 1947, which specified expected standards for the care of children in foster care/boarded out. This included expectations that the foster carer would provide care and support to the children placed with them including clothing, food and medical care. There is no evidence that legislation or regulations were not complied with during this period.

**1960 – 1979**

The main legislation and regulations, including the Boarding-out Children (Scotland) Regulations 1959; Social Work (Scotland) Act 1968; The Children (Act) 1975 placed a duty on us to ensure the suitability of people providing foster care to children; the provision of suitable accommodation; and expected standards of care and support, including a responsibility to ensure children’s safety and wellbeing. There is no evidence that legislation or regulations were not complied with during this period.

**1980 - Onward**

Since the mid 1980’s we have used the BAAF Form F Assessment to establish the suitability of prospective foster carers. This includes completion of the necessary statutory checks, namely Disclosure/PVG; medical; personal references; local authority and employer checks. Approved foster carers are regularly reviewed to ensure their on-going suitability. Our records indicate the provision of ongoing support, supervision and training to our foster carers including the provision of specific training on issues such as attachment, child sexual abuse, resilience, trauma brain development and child protection. There is clear evidence in our records that this has been our practice since the mid 1980’s.

Partnership Agreements were and remain a contract between approved foster carers and us. These documents state the responsibilities foster carers have providing care

for children placed with them, including the provision of a good standard of emotional and physical care and the requirement to comply with safe caring practices.

Since the mid-2000's we have emphasised safe caring practices with our foster carers and there is a requirement for foster carers to be clear about house rules and boundaries to ensure the protection of children and the protection of foster carers and household members from allegations. The purpose of a Safer Care Approach is to ensure that foster carers are aware of their responsibilities to the children in their care, with regards to their emotional and physical wellbeing including the level of supervision; privacy, personal space etc. to safeguard the children, the carers and any other household members.

Risk assessments are completed for all children in foster care to ensure they are matched with carers who are able to meet their needs.

ii. The child's views

**1930-1959**

Our records do not contain any information about how the child's views were sought during this period.

**1960-1979**

Our records do not contain any information about how the child's views were sought during this period.

**1980-1989**

Case files contain evidence that children's views were sought, particularly from the mid 80's. In the early 80's the views of birth parents were more routinely sought than those of children.

**1990 – Onward**

Children's views are routinely sought and recorded. Children's views are considered at child care reviews and the annual review of the foster carer. Our records show children being supported to complete Having Your Say reports; My Placement Agreement; and/or All About My Carers forms. Children in foster care are supported to attend the Having Your Say Forum. The forum was established in 2002 alongside the development of multi-agency working in children's services and was part of the wider participation agenda. Key aims were to nurture personal, social and emotional development; actively involve children and young people in decision making processes; and influence service development. The forum is open to any child or young person, aged 5-15 years who had experience of the care system. Most of those who attend are looked after away from home or in respite.

It is the practice of the Fostering Service to obtain the views of children in foster care. Depending on a child's age and stage, the child can request someone they know and trust (other than the foster carer) to help them complete their report.

iii. Placement of siblings

**1930-1959**

Our records do not contain any specific reference to the placement of siblings. The Children and Young Persons (Scotland) Care and Training Regulations 1933 stated the desirability of placing siblings together and Section C of the Boarding Out of Children (Scotland) Regulations 1959 emphasised that siblings should be boarded out together where practical. There is nothing to suggest that we did not conform to legislation, national guidance or regulations during this period.

**1960-1979**

Our records do not contain any specific reference to the placement of siblings. There is nothing to suggest that we did not conform to legislation, national guidance or regulations during this period.

**1980-1989**

Our records do not contain any specific reference to the placement of siblings. Professional knowledge from this period indicates that where possible attempts were always made to keep siblings together where practical and in the best interests of the children. There is nothing to suggest that we did not conform to legislation, national guidance or regulations during this period.

**1990- Onward**

Records including Child in Care Reviews; individual case notes etc. indicate that if sibling groups were separated we reviewed this and tried to identify a suitable placement for the children to be together. We identified children who were unable to be placed with their siblings but were in geographically close placements to allow continued contact.

We continue to place children with siblings where possible. If it is not possible to place siblings together we ensure that foster carers are committed and able to facilitate sibling contact.

iv. The placement of a child in foster care

There is nothing to suggest that we did not conform to legislation, national guidance or regulations at any time since 1930.

From the 1980's the focus has been on placing children and young people with families, wherever possible, rather than in institutional care.

v. The particular placement of a child with foster carers

Prior to the 1980's we have no information about the particular placement of a child with foster carers.

From 1980 there is evidence of matching processes to try to ensure that particular children were placed with foster carers who were able to meet their needs. In some instances, foster parents were specifically recruited for a particular child and other foster carers were approved specifically for an individual child (particularly Share the Care placements.)

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

Between 1930 and 1979 there are limited records of contact between children in foster care and their family.

Since the 1980's there is evidence in children's files; foster carer files; panel minutes and the minutes of Child Care reviews that contact between children in foster care and their families was promoted, supported and facilitated.

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

Between 1930 and 1979 there are limited records of contact between children in foster care and their siblings in foster care.

Since the 1980's there is evidence in children's files; foster carer files; panel minutes and the minutes of Child Care reviews that contact between children in foster care and their siblings was promoted, supported and facilitated.

- viii. Information sharing with the child's family

### **1930 – 1979**

There is evidence that some information was shared with the child's family where considered to be appropriate.

### **1980 – Onward**

From the 1980's more information has been shared with families. Social work practice is focused on working in partnership with children and families. Unless there are legal reasons (sub judice or data protection issues) information is consistently shared with families. The foster carer handbook contains guidance on sharing information.

- ix. Fostering panels (including constitution, remit, frequency and record keeping)

### **1985 - Onward**

Fostering panels were established as stipulated in the Boarding Out and Fostering Children (Scotland) Regulations 1985. The function, remit, constitution, frequency and record keeping was consistent with these regulations and later the Fostering of Children (Scotland) Regulations 1996 and the Looked After Children (Scotland) Regulations 2009. Foster carer files contain reports to and minutes of fostering panels.

- x. Recruitment and training of foster carers

### **1930 - 1959**

Our records contain no information about the recruitment and training of foster carers.

### **1960 -1979**

Our records contain no information about the recruitment and training of foster carers. Reference is made to the use of a recruitment advert in West Lothian County/Lothian County Council Committee minutes.

### 1980 - Onward

Our records show a clear process of assessment, approval and review of foster carers since the mid 1980's. Since 1983 we have used the BAAF Form F for the assessment of carers. This includes a comprehensive home study and completion of relevant checks (including Disclosure/PVG; medical; personal references; employer references).

Foster carers attend a preparation group before the assessment starts so that they are clear about the fostering task and able to make an informed decision about proceeding with the assessment.

Ongoing training and support groups are provided for foster carers.

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

There is no evidence that employers had to divulge details of any complaints in relation to prospective foster carers to the local authority.

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

Our records between 1930 and 1979 indicate that children were discussed on more than one occasion at West Lothian County and Lothian Regional Council Committees. As per the relevant legislation and regulations of the time, these committees had responsibility for oversight of foster care provision.

From the 1980's onwards our records indicate that reviews of children in care took place on a regular basis.

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

Prior to the 1980's there is limited information about the frequency, purpose and content of visits to foster care placements.

From the 1980's onward case notes in foster carer and children's files evidences regular visits by supervising social workers and the child's social worker. Supervising social workers visit foster carers to offer support, guidance, supervision or in response to a particular issue and in line with current regulations.

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

There is little evidence available between 1930 and 1980 to answer this question. There is evidence from 1980 onwards that, wherever possible, introductions and visits to new placements happened prior to the transfer.

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

There is little information available between 1930 and 1980 to answer this question. There is evidence from 1980 onwards that, wherever possible, introductions and visits to new placements happened prior to the transfer.

xvi. Child protection

There is little evidence available between 1930 and 1980 of how child protection issues were responded to. From the 1980's onwards it is clear that child protection guidance and procedures are available and that these are adhered to.

xvii. Complaints handling

It is not clear from previous decades how complaints were handled. Between 1975 – 1996 West Lothian was part of Lothian Regional Council and information may be available from the City of Edinburgh Council.

From 2014, all complaints are addressed by our Complaints Procedure and there is no longer a Social Work Complaints Review Committee.

There is a specific guide re complaints for children and young people who are placed with foster carers. Children and young people are able to access an independent advocacy service should they wish and can be supported to do so.

West Lothian Council Fostering Service Statement of Purpose (last updated in October 2019) provides information about our complaints procedure including information about the Care Inspectorate, to whom complaints can be made.

A guide to making compliments and complaints is available for children who are placed with foster carers. Children/young people are able to access an independent advocacy service.

There is an appeal process for prospective foster carers who are not approved or approved foster carers who are de-registered. This process is detailed in the Fostering Service Policy.

Inventory references WLC008

xviii. Whistleblowing

West Lothian Council implemented a Whistleblowing Policy in 2000 (revised in 2014). There have been no whistleblowing concerns raised about foster care.

xix. Record retention

**1930 – 1996**

We have no information about how long records were kept during this time period. From 1975 – 1996 West Lothian was part of Lothian Regional Council and information may be available from the City of Edinburgh Council.

**1996 – onward**

West Lothian Council's Record Management Unit was established in 1996 to provide archive and records management services for and on behalf of West Lothian Council. West Lothian Council Record Management unit began accepting records management consignments from service areas in March 1996. An Archive Retention Management System (ARMS) Report written in 2000 stated that all service units deposit at the records centre, except Social Work. Social Care was responsible for the development and implementation of Social Work retention policies and procedures and for the physical management of files. Social Policy began sending records to the records management unit in April 2004.

West Lothian Council initially developed a Records Management Policy which was approved by Council Executive on the 23 December 2008. This policy established principles for the management of all council records. The Policy has been regularly reviewed and in 2019 the policy was replaced by an Information Governance Policy.

The council established Records Retention Schedules in 2013. The schedules were adapted from the Scottish Council for Archives Records Retention Schedules. These detail record series relating to foster care records and the applicable disposal rules. Retention schedules are reviewed on a regular basis. There have been minor changes to the schedules over the period.

**c) How was adherence demonstrated?****1930 - 1959**

We cannot demonstrate adherence as we do not know how long records should have been kept for during this period.

**1960 - 1979**

We cannot demonstrate adherence as we do not know how long records should have been kept for during this period.

**1980 - 1989**

We have children and foster carer files; foster care panel minutes and committee minutes from this period.

**1990 – Onward**

We have children and foster carer files; foster care panel minutes and committee minutes from this period.

**d) How can such adherence be demonstrated to the Inquiry?**

All documents are available for the inquiry if required.

**e) Were relevant records kept demonstrating adherence?**

Yes. All records found in relation to the question have been retained.

**f) Have such records been retained?**



We have limited records prior to the 1980's. More records, including policies and procedures have been retained since the mid 1980's in line with the council's record keeping policy (please refer to section 4.1).

**g) If policy/procedure was not adhered to in practice, why not?**

Not applicable.

**h) If policy/procedure was not adhered to in practice, what was the practice?**

Not applicable.

**Present**

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

No

**j) If so, please give details**

Not applicable.

**4.3 Children**

**(i) Policy**

**Past**

**a) What policies and/or procedures did the local authority have in place in relation to the care of children in foster care?**

**1930-1979**

Our records do not contain any specific policies and procedures about the care of children in foster care.

**1980- onwards**

Our records indicate a move towards the formalisation of assessment; initial approval; and ongoing review of foster carers to ensure the initial and ongoing suitability of those caring for children placed in foster care. Partnership agreements between carers and us detail the expectations of the foster care task.

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

There are no particular policies.

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

Between 1930 – 1975 we have no information about how policies and procedures were recorded.

Between 1975 - 1996 West Lothian was part of Lothian Regional Council. Policies and procedures were recorded on paper and may be available from the City of Edinburgh Council.

From 1996 – 2004 organisational knowledge tells us that policies and procedures were held as paper records, available staff in their workplaces. The council has undergone radical organisational change over the last 10 years, including office rationalisation and a move away from paper, resulting in the destruction of many paper documents. From 2004 policies and procedures were available electronically on the council's staff intranet.

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

**i. Safeguarding**

We have found no policies and/or procedures specifically about safeguarding. Between 1930 – 1948 a children's inspector was appointed by the Children's Committee to ensure the safety of children in local authority care.

Although we have found no specific policies and/or procedures, we have found no evidence that throughout the decades that the welfare and safety of children was not taken seriously or that the legislation, regulations and any national guidance was not adhered to.

**ii Child Protection**

We have found no child protection policies and/or procedures in our historical records. It is likely that policy/guidance would have been in place following the death of Maria Colwell in 1973 and subsequent inquiry. Non-Accidental Injury Registers were established in 1975. From 1975 – 1996 West Lothian was part of Lothian Regional Council and this information may be available from the City of Edinburgh Council.

Organisational knowledge is clear that from the 1980's onward child protection guidelines (which became multi-agency procedures) were in place.

**iii. Medical care**

We have found no medical care policies and/or procedures in our historical records.

Our records show that arrangements were made for boarded out children to be registered as a patient with a medical practitioner National Health Service (Scotland) Act 1947 in the district where the foster home was. Records in earlier decades indicate an expectation that children would be examined by a medical practitioner within one month of being placed in a foster home and thereafter at intervals not exceeding twelve months. The medical examiner submitted a report about the

health of the child. Examples were seen where committee funded the medical care of boarded out children.

In 2004, West Lothian Children's Services Management Group established a multi-agency team for Looked After Children that included a 'LAC Nurse'. The LAC nurse ensured comprehensive health assessments for all Looked After and Accommodated children and young people and co-ordinated any identified health needs. In addition to the public health approach, the nurse worked directly with the children and young people on self-esteem, anxiety management and sexual health.

iv. Children's physical wellbeing

Please refer to (iii) above.

v. Children's emotional and mental wellbeing

Please refer to (iii) above.

vi. Schooling/education

**1930 – 1975**

We have found no policies or procedures related to the education of children in foster care, although there is evidence from 1971 and the introduction of the Children's Hearing system that the education of children in foster care was discussed at Children's Hearings.

From 1975 – 1996 West Lothian was part of Lothian Regional Council and policies and/or procedures may be available from the City of Edinburgh Council.

Developments in relation to raising educational attainment for children in care increased in focus from the turn of the century with the publication of the 'Learning with Care' report. Our records contain several reports to our committees outlining the Learning with Care Project. In West Lothian this included the provision of a personal computer and printer in every foster carer home along with suitable furniture and educational software; Internet access with web filtering to ensure safety online; and Room 2 b, an interactive programme developed to support Looked After Children in West Lothian. The programme of activity under the Learning with Care banner provided West Lothian's Looked After Children with the same online educational experiences as their peers.

In 2003 West Lothian Council Education Services and Social Policy jointly developed an Education Policy for Looked After Children that included a section specifically for the fostering service. The policy encouraged carers to ensure that their placement was an educationally rich environment, and to work in partnership with parents particularly in relation to involvement at parent's nights and any school meetings.

Developments in relation to improving educational outcomes continued through the 'We can and must do better' programme with specific actions integrated into our Children's Services plans. A report to committee in 2011 confirmed that school attendance rates for children in all ages in foster care were consistently higher than

the national average attendance for all pupils. The report noted that attendance dropped when placement moves were experienced.

In 2013, West Lothian Council Executive extended its arrangements for safe access to the internet to enhance learning for Looked After Children in keeping with the objectives of the CEOP (Child Exploitation and Online Protection) Centre.

#### vii. Discipline

We have no information about discipline prior to 1996. Knowledge of the organisation in the late 80's and early 90's recalls that physical discipline of children by carers was not allowed but we have no documentation to confirm this. The Carer's Handbook, first produced in 1996 stipulates that physical chastisement is an unacceptable form of punishment. The Care and Control in Foster Care Policy 2002 reiterates this stance and outlines other acceptable forms of discipline.

The Physical Punishment of Children in Scotland consultation document was presented in 2000 to the committee which highlighted that although there were more effective and preferable means of disciplining children, "parents shall continue to use physical punishment on children....as that reflected current public opinion". A report to committee in November 2001 on the 'Children are Unbeatable' campaign confirmed the council's position for positive, non-violent discipline. This was detailed in the foster carer handbook that clearly stated foster carers should not use any form of physical punishment.

#### viii. Activities and holidays for children

1930 – 1979 We have not found any policies or procedures about activities or holidays.

Since the 1980's there is evidence of children being supported to attend community activities and go on holiday with their foster carers.

Since 2006 we have had a specific policy about activities, the Extra Curricular Activities (Accommodated Children). The policy aims to support the development of those personal qualities which enable a child to make relationships, become independent and operate effectively in society.

Our foster carer handbook contains information for foster carers to consider when planning holidays, recognising that change can sometimes be difficult for children in care.

#### ix. Sharing a bedroom

Our records do not contain any historical or current policies in relation to children in foster care sharing bedrooms. We would generally agree to siblings sharing bedrooms, dependant on their age and gender. We continue to have some long-standing placements where unrelated children share a bedroom. It is planned for this practice to be phased out as children naturally move on.

#### x. Contact with family members

We have found no policies or procedures on this topic.  
 Between 1930 and 1979 regulations of the time allowed for family contact at the discretion of the placing authority.  
 From the 1980's there is evidence that between children in foster care and their family members has been promoted and facilitated.

xi. Contact with siblings

We have found no policies or procedures on this topic.  
 From the 1980's there is evidence that between children in foster care and siblings unable to be placed together has been promoted and facilitated.

xii. Celebration of birthdays and other special occasions

**1930 – 1979**

We have found no policies or procedures on this topic.  
 West Lothian County and Lothian Regional County Council Committee minutes refer to Christmas gifts; and the payment of birthday and Christmas allowances.

**1980 onward**

The Payments to Foster Carers Policy includes payments for birthday; Christmas and other important religious holidays allowances.

xiii. Information sharing by the foster carer with family members

**1930 – 1979**

We have found no policies or procedures on this topic.

**1980 - onwards**

Our foster carer handbook contains information on information sharing and compliance with data protection.

**e) Who compiled the policies and/or procedures?**

**1930 -1959**

We have not found any specific policies and procedures. West Lothian County Council Committee held responsibility for children, including those in foster care/boarded out.

**1960 -1975**

We have not found any specific policies and procedures.

**1975 -1996**

We have not found any specific policies and procedures. West Lothian was part of Lothian Regional Council and this information may be available from the City of Edinburgh Council.

**1996 - Onward**

Policies and procedures are produced by officers in Social Policy (in conjunction with foster carers and children where appropriate) before progressing through the council's corporate governance structure including the Social Policy – Policy Development and Scrutiny Panel and the Council Executive.

**f) When were the policies and/or procedures put in place?**

1930 – 2000. We have not found any specific policies and procedures. Between 1975 – 1996 West Lothian was part of Lothian Regional Council and this information may be available from the City of Edinburgh Council. We have found policies and procedures from 2000 onwards. Changes in policy and/or procedures have taken place in line with changes in legislation, national guidance and regulations.

**g) Were such policies and/or practices reviewed?**

Changes in policy and/or procedures have taken place in line with changes in legislation, national guidance and regulations.

**h) If so, what was the reason for review?**

Changes in policy and/or procedures have taken place in line with changes in legislation, national guidance and regulations.

**i) What substantive changes, if any, were made to the policies and/or procedures over time?**

As we do not have copies of previous policies and procedures we cannot identify substantive changes. However, changes in policy and/or procedures have taken place in line with changes in legislation, national guidance and regulations.

**j) Why were changes made?**

Changes in policy and/or procedures have taken place in line with changes in legislation, national guidance and regulations.

**k) Were changes documented?**

We do not have copies of previous policies and procedures.

**l) Was there an audit trail?**

We have found no evidence of audit trails.

**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.**

Many of our existing policies and procedures about foster care provision have been in place since before 2014. Any review of these documents since this date have resulted in limited changes. We consult with children and foster carers about the development of the fostering service.

### **4.3 Children**

#### **(ii) Practice**

##### **Past**

**a) Did the local authority adhere in practice to its policy/procedures relating to the care of children in foster care?**

##### **1930 – 1959**

Records indicate that the committee with oversight of foster placements met at least 4 times per year; the relevant committee constitution included 3 women; and statutory visits were completed as stipulated in the Children (Boarding-out etc.) (Scotland) Rules and Regulations 1947. Records indicate that it was practice during this period to place children with foster carers rather than in institutions and with extended family members rather than “strangers”.

Our records show that financial contributions from parents for the maintenance of their children in foster care was sought by the Council and legal action was taken if parents did not pay.

West Lothian County Council Committee minutes indicate discussions about statutory visits/inspections.

##### **1960 -1979**

Committee minutes from this period indicate that parents were expected to contribute to the maintenance of children in foster care and that parental contributions were sought and pursued in line with The Social Work (Scotland) Act 1968.

Minutes indicate that all boarded out children were discussed by committee on an ongoing basis.

##### **1980 -1989**

Our records indicate a move towards the formalisation of assessment and approval of foster carers. We have used the BAAF Form F since 1983. This document has been used consistently since its introduction.

Fostering panels were set up as stipulated in regulations.

Records evidence that it was standard practice to review children's placements in foster care and that reviews of foster care placements and the continued approval of foster carers took place.

Partnership Agreements were introduced during this period clearly outlining the expectations of the fostering task and our responsibility to provide training, support and supervision for foster carers.

### **1990 - Onward**

Our current foster care service is based on the model established in the mid 1980's. This model has been modified in response to changes in legislation, regulations and standards. The current service design reflects the Children (Scotland) Act 1995; Fostering of Children (Scotland) Regulations 1996; The Regulation of Care (Scotland) Act 2001; The Adoption (Scotland) Act 2007; Looked After Children (Scotland) Regulations 2009; Children's Hearing (Scotland) Act 2011; Children and Young People (Scotland) Act 2014; and the National Care Standards (Foster Care and Family Placement Services) 2005.

In line with the Regulation of Care (Scotland) Act 2001, our Fostering Service is now registered and inspected regularly by the Care Inspectorate.

Records evidence clear recruitment, approval and review processes for foster carers. There is evidence of ongoing supervision, support and training for foster carers. There is evidence that child protection procedures were followed, child care reviews took place and the views of children being sought.

### **b) Did the local authority adhere in practice to its policy/procedures in terms of the following?**

#### **i. Safeguarding**

Examples where safeguarding issues were addressed are evidenced in the Complaints and Allegation of abuse section in Part D.

#### **ii. Child Protection**

Our records do not contain details of specific policies and procedures in earlier decades. From the 1980's onwards there are clear examples in children's files of child protection procedures being followed.

#### **iii. Medical care**

Part IV of the National Health Service (Scotland) Act, 1947 stipulated that the care authority had a duty to ensure that all boarded-out children were registered as a patient with a medical practitioner undertaken to provide general medical services in the district where the foster home was. It ensured that children were reviewed within one month of being placed in a foster home and thereafter at intervals not exceeding



twelve months. Prior to this, the committee would privately fund the medical care of boarded out children.

There is clear evidence that the medical needs of children in the local authority's care have consistently been met.

iv. Children's physical wellbeing

Please refer to section 4.2 (i)

v. Children's emotional and mental wellbeing

There is clear evidence in the files that children's emotional and mental wellbeing care needs have been met. This includes examples of Child and Family Psychiatrist appointments, counselling sessions, and support to foster parents. Please refer to section 4.2. (i).

vi. Schooling/education

From 1930 to 1969 the Education committee had responsibility for all educational policy and procedures. With the introduction of the Children's Hearing system in 1971 children's attainment and educational needs have been reviewed by the panel. Child in Care Reviews (now Looked After Reviews) have a focus on all aspects of children's wellbeing including their educational needs. The LAC pack Training and Resource pack for Looked After Children), produced in 2006 was a comprehensive set of resources for use by schools and other professionals working with looked after children, including those in foster care.

vii. Discipline

**1930 – 1979**

We have no information for this period.

**1980's – onward**

Foster carers were not allowed to physically discipline children from the 1980's. The Physical Punishment of Children in Scotland consultation document was presented in 2000 to the committee which highlighted that whilst there were more effective and preferable means of disciplining children, "parents shall continue to use physical punishment on children....as that reflected current public opinion". The local authority's stance was that foster carers could not and should not physically discipline a child. Please see section 4.3 (i) above for additional information on the council's policy position in relation to positive, non-violent discipline.

viii. Activities and holidays for children

**1930 – 1979**

We have no information.

**1980's - 2006**

There is evidence in children's files of them being supported to attend activities. There is evidence of children going on holiday with their foster carers.

**2006 – onward**

We have a specific policy, Extra Curricular Activities (Accommodated Children).

ix. Sharing a bedroom

It is clear from records that children in foster care have shared bedrooms with siblings, unrelated children and the foster carer's child.

x. Contact with family members

**1930 – 1979**

We have no information.

**1980's – onward**

There is evidence in children's and foster carer's files of children having contact with their families.

xi. Contact with siblings

**1930 – 1979**

We have no information.

**1980's – onward**

There is evidence that contact between siblings was promoted and facilitated.

xii. Celebration of birthdays and other special occasions

It was clear from the evidence found throughout the decades that children and young people celebrated their birthdays and other special occasions with the foster carers and with their families where possible.

xiii. Information sharing by the foster carer with family members

**1930 – 1979**

There is limited evidence available in relation to information sharing with a child's family.

**1980 – onwards**

There is evidence in children's files that information has been shared with the child's family.

**c) How was adherence demonstrated?**

There is evidence in children's files and foster carer files.

**d) How can such adherence be demonstrated to the Inquiry?**

All evidence is available to the Inquiry.

**e) Were relevant records kept demonstrating adherence?**

Yes. All evidence found has been retained.

**f) Have such records been retained?**

We have limited records prior to the mid 1980's. More records, including policies and procedures have been retained since the mid 1980's in line with the council's record keeping (please refer to section 4.1).

**g) If policy/procedure was not adhered to in practice, why not?**

Not applicable.

**h) If policy/procedure was not adhered to in practice, what was the practice?**

Not applicable.

**Present**

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

No

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

Not Applicable

**4.4 Foster carers**

**(i) Policy**

**Past**

**a) What policies and/or procedures did the local authority have in relation to foster carers?**

**1930-1959**

Our records do not contain any specific policies and procedures from this period. Our records indicate that a committee did oversee foster care provision, sitting at least 4 times per year with the required committee constitution and statutory visits as per the Children (Boarding-out etc.) (Scotland) Rules and Regulations 1947. Our records from this period indicate that extended family members caring for children in our care were seen as being foster carers and generally paid the same allowances.

**1960-1979**

Our records do not contain any specific policies and procedures from this period.

**1980-1989**

Our records from this period show a move towards the formalisation of foster care provision. We have used the BAAF Form F since 1983 which has allowed for a formal and consistent assessment of prospective foster carers.

The Boarding Out and Fostering of Children (Scotland) Regulations 1985 placed a duty on us to establish Fostering Panels for the initial approval of prospective foster carers and the ongoing review of approved foster carers. These panels form the basis for our current panel model, with panel members making a recommendation on the suitability of prospective foster carers and the ongoing suitability of approved foster carers to the Agency Decision Maker. Although our policies and procedures from this time are limited we have found reference to our fostering panels in the System of Review – Share the Care Policy and Procedure from this time.

From 1975 – 1996 West Lothian was part of Lothian Regional Council and more information may be available from the City of Edinburgh Council.

The Partnership agreement was introduced in the 1980's specifying the role of the foster carer and our responsibilities to foster carers.

**1996 Onward**

Our records indicate a continued move towards the professionalisation and regulation of foster care provision. We are able to evidence policies and procedures from 2000 onwards. From 1996 the procedures for foster carers were all contained in the foster carer handbook.

**b) Was there a particular policy and/or procedural aim/intention?****1930-1959**

Our records indicate an adherence to the relevant regulations of the time, particularly in relation to the committee's functioning, including how often it met and its constitution. The policy/procedural aim is not recorded in the information we have.

**1960-1975**

Our records indicate an adherence to the relevant regulations of the time, particularly in relation to the committee's functioning, including how often it met and its constitution. The policy/procedural aim is not recorded in the information we have.

**1975-1996**

Our records indicate a move towards the formalisation of the fostering service and professionalisation of the fostering role. Our records from the period contain mention of the establishment of a fostering panel in line with the introduction of the Boarding-Out and Fostering of Children (Scotland) Regulations 1985. The BAAF Form F was introduced for the assessment of prospective foster carers and appropriate checks were undertaken. This move towards more formal processes is further evidenced by the introduction of the Partnership Agreement. From 1975 – 1996 West Lothian was part of Lothian Regional Council and more information may be available from the City of Edinburgh Council.

**1996 – Onward**

Our records show further developments in line with the introduction of new legislation and regulations. For example, annual reviews for our approved foster carers. Our records do not contain any policies or procedures, but we have strong evidence in case files of annual reviews taking place. We continue to review our policies and procedures in line with the introduction of new legislation, regulations and guidance.

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

**1930 – 1975**

We have no information about how policies and procedures were recorded.

**1975 – 1996**

West Lothian was part of Lothian Regional Council. Policies and procedures were recorded on paper and may be available from the City of Edinburgh Council.

**1996 – 2004**

Organisational knowledge tells us that policies and procedures were held as paper records, available for staff in their workplaces. The council has undergone radical organisational change over the last 10 years, including office rationalisation and a move away from paper, resulting in the destruction of many paper documents.

From 2004 policies and procedures were available electronically on our staff intranet.

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

i. Recruitment

Our records do not contain a specific policy about the recruitment, assessment and approval of prospective foster carers before the 1980's. Our records from the 1980's onward demonstrate a clear procedure in relation to the recruitment and assessment of prospective foster carers including; the BAAF Form F, statutory checks, and recommendations about approval or continued approval being made to the Agency Decision Maker by the Fostering Panel.

ii. Standard and size of accommodation

The Children and Young Person (Scotland) Care and Training Regulations 1933 specified that children should not be placed in foster care with anyone in receipt of "poor relief" as they should not be removed from poverty only to be placed in a similar environment. There is no indication that these regulations were not adhered to.

We have found no specific policies or procedures that refer to the standard or size of accommodation.

From the 1980's and the introduction of the BAAF Form F it would be expected that the assessing social worker would consider the standard and size of the accommodation as part of the home study.

iii. Number, age and gender of children accommodated/in the household

We have found no specific policies or procedures that refer to the number, age and gender of children accommodated/in the household.

From the 1980's and the introduction of the BAAF Form F it would be expected that the assessing social worker would consider these issues as part of the home study and make a recommendation to the Fostering Panel.

Carer Approval details the type of care, numbers, ages and gender of children to be cared for.

iv. Pre-approval/registration checks

**1930 – 2004**

We have found no specific policies or procedures that refer to pre-approval/registration checks.

**2004 – onward**

The Approving Carers Procedure 2004 stipulates the checks which have to be carried out pre-approval.

The Foster Carer Approval – Temporary Requirement 2007 (under review) details the procedure which is to be followed if it is necessary to consider a temporary amendment to a foster carer approval.

v. References

**1930 - 2004**

We have found no specific policies or procedures that refer to references.

From the 1980's and the introduction of the BAAF Form F it is clear that personal references and references from previous employers are required.

**2004 - onwards**

The Approving Carers Procedure 2004 stipulates the references which are required pre-approval.

The Fostering Service 2004 Policy (under review) stipulates the checks and reference required

vi. Foster care agreements

We have found no specific policies or procedures that refer to foster care agreements.

Foster care agreements have been in place since the 1980's.

vii. Induction

We have found no specific policies or procedures that refer to induction.

From the 1980's prospective foster carers attend preparation groups before proceeding to the formal assessment. This gives prospective carers the opportunity to learn all about the fostering task, what they can expect from us and what we expect of them. This allows prospective foster carers to make an informed decision about whether they wish to continue with their application and be formally assessed.

- viii. Transfer of foster carers to or from other organisations or local authorities

We have found no specific policies or procedures that refer to transfer of foster carers.

- ix. Review/supervision

We have found no specific policies or procedures that refer to review/supervision

- x. Training

We have found no specific policies or procedures that refer to training

The foster carer handbook developed in 1996 states that carers were required to take up training opportunities as part of their commitment to the task and to the children and young people they looked after. The handbook confirmed that the foster carer would be offered regular opportunities to develop their skills and to attend training events. This provision of appropriate training was part of the council's commitment to foster carers. This included foster carers participation in the Learning with Care training programme in 2004 approved by committee to focus on the educational achievements of children in care.

- xi. Personal development

We have found no specific policies or procedures that refer to personal development.

- xii. Disciplinary actions

There is no information to indicate that there has ever been a disciplinary procedure for foster carers. Their suitability to be, and continue as, approved foster carers is considered at the annual review.

- xiii. Removal of approval/registration

We have found no specific policies or procedures that refer to de-registration

**e) Who compiled the policies and/or procedures?**

**1930 -1959**

We have no information about who compiled policies and procedures during this period.

**1960-1975**

We have no information about who compiled policies and procedures during this period.

**1975 - 1996**

We have no information about who compiled policies and procedures during this period. West Lothian was part of Lothian Regional Council and the City of Edinburgh Council may hold this information.

**1996 - Onward**

Policies and procedures are produced by officers in Social Policy (in conjunction with foster carers and children where appropriate) before progressing through the council's corporate governance structure including the Social Policy – Policy Development and Scrutiny Panel and the Council Executive.

**f) When were the policies and/or procedures put in place?**

As we have found no specific policies or procedures we cannot say when or if any were in place.

**g) Were such policies and/or practices reviewed?**

1930 – 2000 As we have found no specific policies or procedures we cannot say when or if any were reviewed.

Record keeping processes have changed since 2000 with evidence of policies and procedures being reviewed.

**h) If so, what was the reason for review?**

As we have found no specific policies or procedures we cannot say when they were reviewed. It is clear that practice changed with the introduction of new legislation and regulations.

**i) What substantive changes, if any, were made to the policies and/or procedures over time?**

As we have found no specific policies or procedures we cannot say what substantive changes were made.

Our records indicate that we established our Fostering Panel in line with the introduction of the Boarding Out and Fostering of Children (Scotland) Regulations 1985 and that we moved towards the annual review of foster carers as per the Fostering of Children (Scotland) Regulations 1998.

The introduction of the BAAF Form F in the mid 1980's resulted in substantive change, with a move towards a more formal assessment of the suitability of prospective foster carers.



Prior to the introduction of the 1985 regulations our records indicate that family members caring for children were treated very much as foster carers, being afforded the same allowances. Following the introduction of these regulations this was seen as a private arrangement.

**j) Why were changes made?**

As we have found no specific policies or procedures we cannot say why changes were made. Changes in practice appear to have been in response to changes in legislation and regulations.

**k) Were changes documented?**

We have found no specific policies or procedures.

**l) Was there an audit trail?**

1930 – 2004 We have found no specific policies or procedures.  
We have found no audit trail.

**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.**

(iv) Disclosure Scotland checks on prospective carers and all persons in the household aged 16 years and over; full medical on prospective carers and other adult household members which are subsequently considered by the medical adviser. School medical officers' views are obtained for all school age children in the household. Checks against the social care case management system is undertaken in relation to all residents and other family members who are not resident in the applicant's home may require to be checked. These latter checks are based on the professional judgement and at the request of the social worker undertaking the home study.

(v) Two written personal references are obtained and a minimum of one referee is interviewed. A further reference is required from an employer in accordance with the competency-based procedure assessments.

Procedures in place:

- Approving Carers
- Children in Foster Care – Holiday Allowances/Additional Payments
- Disability Living Allowance for Looked After and Accommodated Children
- Foster Carer Approval – Temporary Registration
- Payments to Foster Carers
- Children in Placement – Staying Overnight Away from Carer
- Emergency Planning and Disruptions

- Smoking Policy
- Safe Care Family Policy
- Family Finding, Linking, Matching and Moving

All of our policies and procedures are being reviewed as part of our Service Improvement Plan.

#### **4.4 Foster Carers**

##### **(ii) Practice**

##### **Past**

##### **a) Did the local authority adhere in practice to its policy/procedures in relation to foster care?**

###### **1930-1959**

We have found no specific policies or procedures but records suggest adherence to the relevant regulations and legislation.

###### **1960-1979**

Our records indicate an adherence to relevant legislation and regulations.

###### **1980 - 2000**

Our records indicate an adherence to relevant legislation and regulations.

###### **1990 - Onward**

As per 4.2 ii (a) our records indicate a continued move towards the professionalisation and regulation of foster care provision. Our record keeping process changed over this period and we are able to evidence policies and procedures from 2000 onwards. Our records indicate that since 2000 our practice has been in line with the Fostering Services policies and procedures.

##### **b) Did the local authority adhere in practice to its policy/procedures in terms of the following?**

###### **i. Recruitment**

###### **1930 – 1985**

There is no information available.

###### **1985 – onwards**

There has been a clear process in place for the recruitment of foster carers and practice has adhered to this.

###### **2004 – onwards**

Our practice has been in line with our Approving Carers (Foster Care, Day Carers, Adoption and Outreach) Procedure.

ii. Standard and size of accommodation

**1930 – 1985**

There is no information available

**1985 - onwards**

It is clear that the assessment of foster carers has considered the size and standard of accommodation.

iii. Number, age and gender of children accommodated/in the household

**1930 – 1985**

There is no information available

**1985 – onwards**

It is clear that this topic is considered as part of the assessment process and the Fostering Panel makes a recommendation to the Agency Decision Maker about the number, age and children the foster carer should be approved to care for.

iv. Pre-approval/registration checks

**1930 - 1979**

There is limited evidence about checks being completed on prospective foster carers, with the occasional reference being made to interviewing a prospective foster carer; and/or completing a home check.

**1980 – onwards**

Since the adoption of the BAAF Form F all statutory checks have been completed.

v. References

**1930 - 1979**

There is no information available.

**1980's – onward**

We have requested 2 personal references and an ex-partner reference. We have requested an employer reference since 2004.

vi. Foster care agreements

**1930 – 1980**

There is no evidence of Foster Carer agreements

**1980 – onwards**

Our records indicate the use of foster carer agreements, known by us as Partnership Agreement since the mid to late 1980's.

vii. Induction

Recent practice indicates that newly approved foster carers are buddied with an experienced foster carer. We invite all foster carers to regular support groups and all relevant training.

viii. Transfer of foster carers to or from other organisations or local authorities

Our recent practice indicates adherence to the Transfer of foster carers protocol Scotland (2015).

ix. Review/supervision

**1930 – 1979** Our records do not contain any evidence that foster carers were regularly reviewed and/or supervised.

**1980 – onwards**

Our records from 1980's onwards indicate that our foster carers were visited regularly by the supervising social worker and reviewed at least annually. Additional reviews are scheduled if there has been a significant incident or change in circumstances. Our records indicate that since the introduction of our Partnership Agreement in the late 1980's there has been a requirement for us to provide supervision to our foster carers. This happens at least every 6 weeks.

x. Training

We have no information prior to the 1990s.

Our records from the 1990's show evidence of foster carers attending training in advance of undertaking their carer roles. There is evidence to suggest that training was offered to foster carers on a regular and consistent basis. Training opportunities were often matched to the individual needs of the carers, dependent on the children who were in the placement. Training needs have generally been recorded in annual review reports since the 1990's.

We continued to provide training to our foster carers through a variety of forums, including classroom based and online.

xi. Personal development

There is no evidence that we have ever had a policy about a foster carer's personal development. This is generally discussed in supervision and at the annual review.

xii. Disciplinary actions

There is no information to indicate that there has ever been a disciplinary procedure for foster carers. Their suitability to be, and continue as, approved foster carers is considered at the annual review.

xiii. Removal of approval/registration

We have no information to indicate that there has ever been a procedure for the deregistration of foster carers.

Practice from the mid 1980's shows that continued approval is considered at the Fostering Panel review and a recommendation made to the Agency Decision Maker.

**c) How was adherence demonstrated?**

**1930-1959**

We have found no specific policies or procedures but records suggest adherence to the relevant regulations and legislation.

**1960-1979**

We have found no specific policies or procedures but records suggest adherence to the relevant regulations and legislation.

**1980-1989**

From the mid 1980's our records include children and foster carer files (electronic and paper); fostering panel minutes; and committee minutes that indicate the relevant legislation, regulations and our policies and procedures have generally been adhered to.

**1990 - Onward**

Our records include children and foster carer files (electronic and paper); fostering panel minutes; and committee minutes that indicate the relevant legislation, regulations and our policies and procedures have generally been adhered to.

**d) How can such adherence be demonstrated to the Inquiry?**

All relevant documents are available for the Inquiry

**e) Were relevant records kept demonstrating adherence?**

All evidence found in relation to the question has been retained.

**f) Have such records been retained?**

We have limited records prior to the mid 1980's. More records, including some policies and procedures have been retained since the mid 1980's in line with the council's record keeping policy (please refer to section 4.1).

**g) If policy/procedure was not adhered to in practice, why not?**

Not applicable.

**Present**

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

Yes

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

Many of our existing policies and procedures related to foster care provision and practice have been in place since before 2014. Any review of these documents since this date has resulted in limited changes.

**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?**

**1930 – 1985**

We have found no specific policies or procedures.

**1985 – onwards**

Our policy of using the BAAF Form F as the assessment resulted in checks carried out on members of the foster carer's household over the age of 16.

**2004 – onwards**

The Approving Carers (Foster Care, Day Carers, Adoption and outreach) Procedure details the checks that are required on members of the foster carer's household:

Disclosure Scotland checks on prospective carers and all persons in the household aged 16 years and over;

Other adults in the household should have a medical records check.

Local Authority area checks in relation to all residents should be undertaken.

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

Checks introduced during the 1980's are to ensure the suitability of all household members in relation to the safety and wellbeing of any children requiring foster care.

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

**1930 – 1975**

We have no information about how policies and procedures were recorded.

**1975 - 1996**

West Lothian was part of Lothian Regional Council. Policies and procedures were recorded on paper and may be available from the City of Edinburgh Council.

**1996 – 2004**

Organisational knowledge tells us that policies and procedures were held as paper records, available staff in their workplaces. The council has undergone radical organisational change over the last 10 years, including office rationalisation and a move away from paper, resulting in the destruction of many paper documents.

**d) Who compiled the policies and/or procedures?**

**1930 -1959**

We have no information about who compiled policies and procedures during this period.

**1960-1975**

We have no information about who compiled policies and procedures during this period.

**1975 - 1996**

We have no information about who compiled policies and procedures during this period. West Lothian was part of Lothian Regional Council and the City of Edinburgh Council may hold this information.

**1996 - Onward**

Policies and procedures are produced by officers in Social Policy (in conjunction with foster carers and children where appropriate) before progressing through the council's corporate governance structure including the Social Policy – Policy Development and Scrutiny Panel and the Council Executive.

**e) When were the policies and/or procedures put in place?**

We have no information about policies/procedures from earlier decades  
Current procedures date from 2004.

**f) Were such policies and/or practices reviewed?**

**1930 – 2000** As we have found no specific policies or procedures we cannot say when or if they were reviewed.

Record keeping processes have changed since 2000 with evidence of policies and procedures being reviewed.

**h) If so, what was the reason for review?**

**1930 – 2000**

As we have found no specific policies or procedures we cannot say if or why they were reviewed. However, it is clear that practice changed with the introduction of new legislation and regulations.

**2000 – onwards**

Procedures compiled during the 2000's are currently under review. to check that they are compliant with current legislation, regulations and practice

**g) If so, what was the reason for review?****2000 – onwards**

Procedures are currently being reviewed to check that they are compliant with current legislation, regulations and practice

**h) What substantive changes, if any, were made to the policies and/or procedures over time?**

Not applicable

**i) Why were changes made?**

Not applicable

**j) Were changes documented?**

Not applicable

**k) Was there an audit trail?**

We did not find audit trails.

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

No

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

Not applicable

**4.5 Other members of the foster carer's household****(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?**

Until the 1980's we have no information about other members of a foster carer's household.

With the introduction of the BAAF Form F there is evidence that we adhered to policy/procedure.

**b) How was adherence demonstrated?**



From the 1980's completed Form Fs and statutory checks are stored in foster carer files.

**c) How can such adherence be demonstrated to the Inquiry?**

The files with the evidence are available to the Inquiry.

**d) Were relevant records kept demonstrating adherence?**

Yes. All evidence found in relation to the question has been retained.

**e) Have such records been retained?**

We have limited records prior to the mid 1980's.

**f) If policy/procedure was not adhered to in practice, 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 present position is that all those included in the household and extended family / network are formally included in the assessment and in the vetting process as per the BAAF Form F.

**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?**

**1930 -1979**

We have found no specific policies or procedures.

Reference is made in Lothian Regional Council Committee Minutes to placing a child with Barnardo's Family Placement Service in 1979.

**1980 – Onward**

We have found no specific policies or procedures.

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

We have found no specific policies or procedures.

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

Not applicable.

**d) Who compiled the policies and/or procedures?**

Not applicable.

**e) When were the policies and/or procedures put in place?**

Not applicable.

**f) Were such policies and/or practices reviewed?**

Not applicable.

**g) If so, what was the reason for review?**

Not applicable.

**h) What substantive changes, if any, were made to the policies and/or procedures over time?**

Not applicable.

**i) Why were changes made?**

Not applicable.

**j) Were changes documented?**

Not applicable.

**k) Was there an audit trail?**

Not applicable.

**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.**

If we place children with foster carers approved/registered with other local authorities or organisations we ensure that the agency is registered with the Care Inspectorate and that the foster carers have been approved by an appropriate fostering panel.

**4.6 Placement of children by the local authority with foster carers approved/registered by other local authorities or organisations****(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?**

We have found no policies or procedures.

**b) How was adherence demonstrated?**

It is clear in available files that where children have been placed with foster carers approved by another Local Authority or organisation that children have been visited regularly and their placements reviewed and the foster carers have been reviewed annually.

**c) How can such adherence be demonstrated to the Inquiry?**

All available evidence is available for the Inquiry to ensure adherence.

**d) Were relevant records kept demonstrating adherence?**

Yes. All evidence found in relation to the question has been retained.

**e) Have such records been retained?**

We have limited records prior to the mid 1980's.

**f) If policy/procedure was not adhered to in practice, 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.**

When we place children with foster carers approved/registered with other local authorities or organisations we ensure that the agency is registered with the Care Inspectorate and that the foster carers have been approved by an appropriate fostering panel.

#### **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?**

We found no complaints policies/procedures prior to 2007.

Complex social work scenarios mean that a concern may not necessarily be a complaint. Discretion is required to determine whether something is a complaint that should be handled through the complaints handling procedures or other processes, most commonly child protection or legal processes.

Our records include West Lothian Council's Social Policy Complaints procedure (2007) and guidance notes for handling complaints. Previous versions of policy have not been found in our records but in recent decades dissatisfaction was handled as an integral part of case management and not as a standalone matter.

Prior to 1 April 2017 complaints about social work services were considered at the social work complaints review committee. This committee considered complaints as they related to the discharge of social work functions in respect of an individual client according to legislated powers and duties.

From 1 April 2017 the social work complaints review committee ceased to have a statutory function and since that date all social care complaints are considered in the council's complaints handling procedure. The council's current complaints handling procedure was last revised in December 2018.

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

West Lothian Council welcomes comments about our services. The aim / intention of our approach to complaints is to provide people with a clear and structured way to provide feedback on their dissatisfaction with council services and enable services to learn from complaints and to improve the way services are delivered.

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

Like many of our historic policies and procedures, the complaints handling procedure would have been a paper document provided to office locations and social work office reception areas. In more recent years policy documents have been electronic

and are available to staff on the internal intranet and to the public. Our foster carer handbook contained a section on comments, allegations and complaints.

**d) What did the policies and/or procedures set out on the following:**

i. Complaints by children

Our foster care handbook included a section on how complaints from children should be handled, including how the carer should support the child by contacting their social workers or West Lothian Council's Children's Rights Officer.

ii. Complaints by foster carers

Our foster carer handbook contained a specific section on comments, allegations and complaints including escalation processes and available support. This included the roles of the supervising social worker and the Fostering Network.

iii. Complaints by family members of children

Our foster carer handbook contained a specific section on comments, allegations and complaints including escalation processes and available support. This included the roles of the supervising social worker and the Fostering Network.

iv. Complaints by third persons

Our foster carer handbook contained a specific section on comments, allegations and complaints including escalation processes and available support. This included the roles of the supervising social worker and the Fostering Network.

v. Whistleblowing

There is no evidence of a Whistleblowing Policy prior to 2000. In line with legislation (The Public Interest Disclosure act 1998) West Lothian Council produced a Whistleblowing Policy in 2000, further revised in 2014.

vi. Support, including external support, for those who made the complaint or those who were the subject of complaint

We found no policies/procedures related to support, including external support, for those who made the complaint or those who were the subject of complaint

vii. Response to complaints (including response by the local authority)

We found no complaints policies/procedures prior to 2007. West Lothian Council's Social Policy Complaints procedure (2007) and guidance notes for handling complaints details how complaints should be responded to.

viii. External reporting of complaints

From 2001 complaints are reported to the Care Commission (later the Care Inspectorate). Alongside this, Local Authorities report on their complaint handling performance on an annual basis to the Scottish Public Services Ombudsman (SPSO).

**e) Who compiled the policies and/or procedures?**

Policies and procedures are designed by officers in Social Policy (in conjunction with foster carers and children where appropriate) before progressing through the council's corporate governance structure including the Social Policy – Policy Development and Scrutiny Panel and the Council Executive. Corporate policies (such as the Whistleblowing Policy/Procedure) are compiled by Human Resources staff before progressing through the council's governance structure.

**f) When were the policies and/or procedures put in place?**

We found no complaints policies/procedures prior to 2007

West Lothian Council's Social Policy procedures and guidance notes for handling complaints were developed in 2007.

Prior to 1 April 2017 complaints about social work services were considered at the social work complaints review committee. From 1 April 2017 the social work complaints review committee ceased to have a statutory function and all complaints are considered using the council's complaints procedures.

**g) Were such policies and/or practices reviewed?**

We found no complaints policies/procedures prior to 2007. As shown above the recent complaints procedure has been reviewed.

**h) If so, what was the reason for review?**

Changes in legislation

**i) What substantive changes, if any, were made to the policies and/or procedures over time?**

The main changes have resulted because a Social Work Complaints Review Committee no longer exists.

**j) Why were changes made?**

Changes in legislation

**k) Were changes documented?**

We found no complaints policies/procedures prior to 2007  
Recent changes are documented.

**l) Was there an audit trail?**

Not until the introduction of electronic record keeping in the early 2000's.

**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.**

On 1 April 2017 the Social Work Complaints Review Committee ceased to have a statutory function. Complaints are now dealt with using West Lothian Council Complaints Procedure.

**4.7 Complaints and Reporting****(ii) Practice****Past****a) Did the local authority adhere in practice to its policy/procedures in relation to complaints and reporting about foster care?**

Although formal policy documents for earlier decades have not been found, the case files of children and foster carers demonstrate that handling dissatisfaction was part of case management and review.

**b) Did the local authority adhere in practice to its policy / procedures on the following:****i. Complaints by children**

Although there is limited information available from the earlier decades it is clearly evident from the 1980's to 2014 that the local authority responded to complaints made by children.

**ii. Complaints by staff**

Although there is limited information available from the earlier decades it is clearly evident from the 1980's to 2014 that the local authority responded to complaints made by staff.

**iii. Complaints by family members of children**

Although there is limited information available from the earlier decades it is clearly evident from the 1980's to 2014 that the local authority responded to complaints made by family members.

iv. Complaints by third persons

Although there is limited information available from the earlier decades it is clearly evident from the 1980's to 2014 that the local authority responded to complaints made by third persons.

v. Whistleblowing

There was no Whistleblowing Policy until 2000. There have been no whistleblowing complaints about foster care.

vi. Support, including external support, for those who made the complaint or those who were the subject of complaint

There is limited information from earlier decades. From the mid 1980's files evidence that support (including external support) was available to those making a complaint or the subject of a complaint.

vii. Response to complaints (including response by the local authority)

There is limited information from earlier decades about how complaints were responded to. From the 80's it is clear from files that complaints were responded to.

viii. External reporting of complaints

From 2001 complaints have been reported to Care Commission (Care Inspectorate.) and then more recently to the Care Inspectorate. We report our complaint handling performance on an annual basis to the Scottish Public Services Ombudsman (SPSO). The annual report is available on the council's website.

**c) How was adherence demonstrated?**

Inventory reference WLC009 contains an example of our return to the Care Commission about complaints.

**d) How can such adherence be demonstrated to the Inquiry?**

All available evidence is available for the Inquiry.

**e) Were relevant records kept demonstrating adherence?**

Yes. All evidence found in relation to the question has been retained.

**f) Have such records been retained?**

We have limited records prior to the mid 1980's.

**g) If policy/procedure was not adhered to in practice, why not?**



Not applicable.

### **Present**

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

Yes

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

From 1 April 2017 the social work complaints review committee ceased to have a statutory function and all complaints are considered using the council's complaints procedures.

All complaints that are upheld or partially upheld are analysed and considered by the council's complaint board. The complaints board is chaired by a Depute Chief Executive and attended by all Heads of Service and improvement plans are produced. The council publishes an annual complaint performance report.

### **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?**

#### **1930 – 1975**

We found no policies/procedures related to this topic.

#### **1975 – 1996**

West Lothian was part of Lothian Regional Council and the City of Edinburgh Council may hold this information.

Knowledge of social work practice in the 1980's, 1990's & 2000's indicates that multi-agency child protection guidance or procedures were in place throughout this period. These procedures applied to all children who were at risk of abuse or neglect.

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

#### **1930 – 1975**

We found no policies/procedures.

#### **1975 – 1996**

West Lothian was part of Lothian Regional Council and the City of Edinburgh Council may hold this information.

Knowledge of social work practice in the 1980's, 1990's & 2000's indicates that the aim of child protection guidance and procedures was to ensure the safety of children and protect them from abuse and neglect.

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

It is unknown where policies and procedures were recorded in the early decades. Knowledge of social work practice in the 1980's, 1990's & 2000's indicates that the child protection guidance and procedures were in paper form and available in a variety of establishments (e.g. social work offices; schools; GP surgeries; police stations; family centres.) From 2004 Child Protection Procedures were stored and available electronically for council employees.

**d) What did the policies and/or procedures set out on the following:**

- i. Approach to/process of internal investigations
- ii. Identifying lessons/changes following internal investigations
- iii. Implementation of lessons/changes following internal investigations
- iv. Compliance
- v. Response (to child and abuser)
- vi. Response to complaints (including response by local authority)
- vii. External reporting following internal investigations

Please refer to section 5.2.

**e) Who compiled the policies and/or procedures?**

It is unknown who compiled policies and procedures relating to the protection of children in the early decades. Following the introduction of the National Child Protection Reform Programme and review of arrangements for the Child Protection Committee in Edinburgh, the Lothians, and Scottish Borders, the West Lothian Child Protection Committee (CPC) was established in August 2005.

Edinburgh and the Lothians are covered by one health board (NHS Lothian) and the same child protection procedures apply to Edinburgh, West, East and Midlothian local authorities. Since 2005 the procedures have been reviewed and amended by multi-agency practitioners, initially led by the Edinburgh and Lothians' Child Protection Office and approved by Edinburgh Lothians and Borders Executive Group (ELBEG). This group is comprised of the Chief Executives of the Local Authorities of East Lothian, Midlothian, West Lothian, City of Edinburgh and the Scottish Borders and the Chief Executives of NHS Lothian, NHS Borders and the Chief Constable of Lothian and Borders Police. This information is not held by this authority please contact the relevant authority if you require this information.

Latterly policies and procedures are approved by our Child Protection Committee and Chief Officer Group.

**f) When were the policies and/or procedures put in place?**

**1930 – 1975**

It is unknown if/when policies and procedures were put in place

**1975 – 1996**

West Lothian was part of Lothian Regional Council and the City of Edinburgh Council may hold this information.

Knowledge of social work practice in the 1980's, 1990's & 2000's indicates that policies and procedures were in place. The most recent child protection procedures were produced in 2015 and are due to be reviewed when the National Guidance for Child Protection in Scotland 2014 is updated. This information is not held by this authority please contact the relevant authority if you require this information.

**g) Were such policies and/or practices reviewed?**

**1930 – 1975**

It is unknown if/when policies and procedures were reviewed

**1975 – 1996**

West Lothian was part of Lothian Regional Council and the City of Edinburgh Council may hold this information.

Knowledge of social work practice in the 1980's, 1990's & 2000's indicates that the guidance and procedures were reviewed, amended and updated as knowledge increased, practice developed and in line with changes to legislation and national guidance.

**h) If so, what was the reason for review?**

**1930 – 1975**

It is unknown if/when policies and procedures were reviewed or the reasons for review

**1975 – 1996**

West Lothian was part of Lothian Regional Council and the City of Edinburgh Council may hold this information.

Knowledge of social work practice in the 1980's, 1990's & 2000's indicates that the guidance and procedures were reviewed because of changes in legislation, emerging issues and lessons from Serious or Significant Case Reviews or national inquiries (e.g. Caleb Ness Inquiry 2003)

**i) What substantive changes, if any, were made to the policies and/or procedures over time?**

There is no evidence available for the early decades. Knowledge of social work practice in the 1980's, 1990's & 2000's indicates that significant changes were made to child protection guidance and procedures as a result of changes in practice, national guidance and legislation.

**j) Why were changes made?**

**1930 – 1975**

It is unknown why policies and procedures changed.

**1975 – 1996**

West Lothian was part of Lothian Regional Council and the City of Edinburgh Council may hold this information.

Knowledge of social work practice in the 1980's, 1990's & 2000's indicates that significant changes were made to child protection guidance and procedures as a result of changes in legislation and practice; better understanding of issues such as the impact of domestic abuse on children, child sexual exploitation, online abuse etc.; lessons learned from Serious or Significant Case Reviews or national inquiries

**k) Were changes documented?****1930 – 1975**

It is unknown if changes were documented.

**1975 – 1996**

West Lothian was part of Lothian Regional Council and the City of Edinburgh Council may hold this information.

Knowledge of social work practice in the 1980's, 1990's & 2000's indicates that changes were documented and practitioners were issued with the amended guidance and procedures.

**l) Was there an audit trail?**

There is no audit trail available. The Council's modernisation and digitisation process and office moves have resulted in paper copies of previous policies and procedures being destroyed.

**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.**

Recently introduced software allows previous versions of electronic policies/procedures to be archived when they are updated..

**4.8 Internal Investigations****(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 no evidence available for the early decades. There is clear evidence from 1984 – 2014 that the local authority adhered to practice in its policy/procedures in respect of internal investigations relating to the abuse or alleged abuse of children in local authority foster care.

Please refer to inventory & 5.2 (complaints and allegations)

- b) Did the local authority adhere in practice to its policy/procedures on the following:**

There is no evidence available for the early decades.  
There is clear evidence from 1984 – 2014 that the local authority adhered in practice to its policy/procedures in respect of sections (i), (ii), (iii), (iv), (v).

Please refer to 5.2 (complaints and allegations) and Appendices 1-4

- i. Approach to/process of internal investigations
- ii. Identifying lessons/changes following internal investigations
- iii. Implementation of lessons/changes following internal investigations
- iv. Compliance
- v. Response (to child and abuser)
- vi. Response to complaints (including response by local authority)

Please see 5.2 and Appendices 1-4 (complaints & allegations)

- vii. External reporting following internal investigations

There is no evidence available for the early decades. There is some evidence from 1984 – 2014 that the local authority adhered to its policy and procedures in relation to the external reporting of abuse or alleged abuse following any internal investigation.

Please refer to 5.2 and Appendices 1-4.

- c) How was adherence demonstrated?**

Please see inventory and 5.2 and Appendices 1-4 (complaints and allegations)

- d) How can such adherence be demonstrated to the Inquiry?**

All available evidence is available for the Inquiry. Please refer to inventory.

- e) Were relevant records kept demonstrating adherence?**

Yes. All evidence found in relation to the question has been retained.

**f) Have such records been retained?**

We have limited records prior to the mid 1980's. More records, including policies and procedures have been retained since the mid 1980's in line with the council's record keeping (please refer to section 4.1).

**g) If policy/procedure was not adhered to in practice, why not?**

Not Applicable

**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**

West Lothian Council Records Management Policy was approved by Council Executive on the 23 December 2008. This policy established principles for the management of all council records and has been regularly reviewed. In 2019 the policy was replaced by an Information Governance Policy.

West Lothian Council Record Management Unit was established in 1996 to provide archive and records management services for and on behalf of West Lothian Council. An Archive Retention Management System (ARMS) Report written in 2000 stated that services deposit at the records centre except Social Work. At that time social work services were responsible for the development and implementation of social work retention policies and procedures and for the physical management of files. Social Policy began sending records to the record management unit in April 2004.

The council established records retention schedules in 2013. The schedules were adapted from the Scottish Council for Archives Records Retention Schedules. These detail record series relating to foster care records and the applicable disposal rules. Retention schedules are reviewed on a regular basis.

**(i) Policy**

**Past**

**a) What policies and/or procedures did the local authority have on record keeping in relation to foster care?**

Prior to the establishment of the record management unit, social work records were maintained locally in line with social policy's retention instructions. Electronic records were maintained in line with social policy's case recording standards.

**b) What policies and/or procedures did the local authority have on record keeping by foster carers?**

The foster care handbook contains standards for recording, storing and sharing information about children and the recording and sorting of information.

**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 intention of the Records Management Policy was to commit to good practice record keeping in the council. The intention of the subsequent Information Governance Policy was to ensure the accountability and responsibilities of accuracy.

The intention of the retention schedules is to ensure that records are appropriately managed throughout their lifecycle. The recording of these schedules is within the documents themselves.

**d) What did the policies and/or procedures set out in relation to record keeping on the following:**

Please refer to the Inventory in respect of 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

**e) Who compiled the policies and/or procedures?**

Policies and procedures are designed by officers in Social Policy (in conjunction with foster carers and children where appropriate) before progressing through the council's corporate governance structure including the Social Policy – Policy Development and Scrutiny Panel and the Council Executive.

**f) When were the policies and/or procedures put in place?**

We have no information about policies or procedures prior to the inception of West Lothian Council in 1996.

**g) Do such policies and/or procedures remain in place?**

Yes

**h) Were such policies and/or practices reviewed?**

Organisational knowledge indicates that policies/practices were reviewed and updated in line with national developments or changes in legislation/guidance/rules.

**i) If so, what was the reason for review?**

As detailed in section (h)

**j) What substantive changes, if any, were made to the policies and/or procedures over time?**

As detailed in section (h)

**k) Why were changes made?**

As detailed in section (h)

**l) Were changes documented?**

Changes were documented and shared with practitioners.

**m) Was there an audit trail?**

There are no audit trails.

**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 Recording and Procedures Group will produce a schedule for reviewing policies and procedures. Recently introduced software allows for the archiving of previous electronic versions.

#### **4.9 Record Keeping**

**(ii) Practice**

**Past**



**a) Did the local authority adhere in practice to its policy/procedures in relation to record keeping?**

The methodology statement states that five hundred records were destroyed erroneously in 2010, as previously advised to the Inquiry. Subsequently 322 of these files were found and reviewed. There is no evidence of policy and procedure in relation to record keeping not being followed.

**b) Did the local authority check adherence in practice to its policies and/or procedures in relation to record keeping by foster carers?**

There is limited information available to support this statement on a historical basis. From 1990 there is clear evidence that foster carer log books / diaries and notifiable event incident forms were completed.

**c) Did the local authority adhere in practice/check adherence in practice to its policy/procedures in relation to record keeping on the following:**

There is limited information available to evidence this on a historical basis. From 1990 there is clear evidence that the local authority adhered to practice/check adherence in practice to its policy and procedures in relation to the below.

- 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

**d) How was adherence demonstrated?**

In relation to the maintenance of council records, all staff are required to complete mandatory information management training. All data breaches are reported and investigated. The council has published GDPR and Data Protection information on its website including how to access records. The published information contains a section on requests involving children.

**e) Were relevant records kept demonstrating adherence?**

Yes. All evidence found in relation to the question has been retained.

**f) Have such records been retained?**

We have limited records prior to the mid 1980's. More records, including policies and procedures have been retained since the mid 1980's in line with the council's record keeping (please refer to section 4.1).

**g) If policy/procedure was not adhered to in practice, why not?**

Not Applicable.

**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?**

No

**i) If so, when did the reviews take place, what documentation is available, and what were the findings?**

Not applicable

**j) How have the outcomes of investigations been used to improve systems, learn lessons?**

Not applicable

**k) What changes have been made?**

Not applicable

**l) How are these monitored?**

Not applicable

**m) Did the local authority afford former children in care access to records relating to their time in foster care?**

Please refer to section d) above.

**n) If so, how was that facilitated?**

Please refer to section d) above.

**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?**

No

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

Not applicable

**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**

Children's files are retained in paper format until 2017 and in electronic format post 2017. Electronic files are located in the council's electronic document management system, the social care case management system and the social care electronic document management system.

**ii. Staff with responsibilities for foster care**

The council maintains an HR system for employment and remuneration information. Staff attendance and discipline is maintained in the council's document management system for each service area. Training records are maintained electronically for all mandatory training. Professional supervision records where the child is discussed are stored electronically with a case note added to the child's file if required.

**iii. Foster carers**

All records pertaining to foster carers are held in the council's document management system.

**iv. Complaints**

All complaint records for the more recent years are held in the council's document management systems.

**v. Investigations (both internal and external)**

All records relating to investigations for the more recent years are held in the council's document management systems.

**vi. Responding to requests from former children in foster care for information/records**

All Subject Access Requests (SARs) are maintained in the council's document management system.

**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 abuse, physical abuse, emotional abuse?**

Our records of abuse and/or alleged abuse of children in foster care are primarily in relation to:

- Physical Abuse
- Sexual Abuse
- Emotional Abuse
- Neglect
- Psychological Abuse

Details are included in methodology statement definitions statement.

## **5.2 Extent**

**a) What is the local authority's assessment of the scale and extent of abuse of children in foster care?**

There are over 50 years (1930 – 1954) with no recorded references to abuse or allegations/complaints of abuse. From 1984 details of the allegations/complaints and our response are recorded in Appendix 2. We think it is extremely unlikely that for over 50 years no child was abused in foster care or made an allegation or complaint of abuse. However, without that information it is impossible to assess the extent and scale of the abuse from 1930 – 17 December 2014

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

6,460 paper records and 1,279 electronic records have been reviewed.

**c) How many complaints have been made in relation to alleged abuse of children in foster care?**

227 allegations/complaints were made in relation to the alleged abuse of children in foster care.

**1930 – 1984** - We could find no reference to allegations/complaints of abuse.

**1984 – 1989** - 22

**1990 – 1999** - 83

**2000 – 2009** - 87

**2010 – 2014** – 32

There are 3 allegations/complaints where the date is not clear but would have been made between 1984 and 2014.

**d) Against how many foster carers have the complaints referred to at (c) above been made?**

91

**e) How many foster carers have been convicted of, or admitted to, abuse of children?**

1 convicted

8 admitted to the abuse of a child in their care.

**f) How many foster carers have been found by the local authority to have abused children?**

35

1 convicted

8 admitted

5 de-registered

16 complaints/allegations upheld but carers continued to be approved foster carers

**g) Against how many family members of foster carers have complaints been made in relation to alleged abuse of children?**

19

**h) How many family members of foster carers have been convicted of, or admitted to abuse of children?**

1 convicted

1 admission

**i) How many family members of foster carers have been found by the local authority to have abused children?**

5

**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?**

14

**k) How many other children placed in foster care in the same placement have been convicted of, or admitted to abuse of children?**

1 admitted

**l) How many other children placed in foster care in the same placement have been found by the local authority to have abused children?**

1

**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?**

There is evidence in files that suggests the majority of complaints/allegations were made within a short time of the abuse.

- b) **To what extent were complaints and disclosures made while the abuse or alleged abuse was on-going or recent?**

The majority.

- c) **To what extent were/are complaints made many years after the alleged abuse i.e. about non-recent abuse?**

1 (alleged incident in 1984 reported in 1999)

- d) **Are there any patterns of note in terms of the timing/disclosure of abuse and/or alleged abuse?**

No

**5.4. External Inspections**

- a) **What external inspections have been conducted relating to children in foster care which considered issues relating to abuse and/or alleged abuse of children?**

In living memory, the local authority has not had any inspections conducted by external agencies in relation to abuse or alleged abuse of children.

**For each such external inspection please answer the following:**

- b) **Who conducted the inspection?**

Not Applicable

- c) **Why was the inspection conducted?**

Not Applicable

- d) **When was the inspection conducted?**

Not Applicable

- e) **What was the outcome of the inspection in respect of any issues relating to abuse or alleged abuse of children in foster care?**

Not Applicable

- f) **What was the local authority's response to the inspection and its outcome?**

Not Applicable

- g) **Were recommendations made following the inspection?**

Not Applicable

- h) **If so, what were the recommendations and were they implemented?**

Not Applicable

- i) **If recommendations were not implemented, why not?**

Not Applicable

### **5.5 External Investigations**

In living memory, the local authority has not had any inspections conducted by external agencies in relation to abuse or alleged abuse of children.

- 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?**

Not Applicable

**For each such external investigation please answer the following:**

- b) **Who conducted the investigation?**

Not Applicable

- c) **Why was the investigation conducted?**

Not Applicable

- d) **When was the investigation conducted?**

Not Applicable

- e) **What was the outcome of the investigation in respect of any issues relating to abuse or alleged abuse of children in foster care?**

Not Applicable

- f) What was the local authority's response to the investigation and its outcome?**

Not Applicable

- g) Were recommendations made following the investigation?**

Not Applicable

- h) If so, what were the recommendations and were they implemented?**

Not Applicable

- i) If recommendations were not implemented, why not?**

Not Applicable

### **5.6 Response to External Inspections/Investigations**

In living memory, the local authority has not had any inspections conducted by external agencies in relation to abuse or alleged abuse of children.

- 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?**

Not Applicable

- b) What was the local authority's procedure/process for responding to the outcomes of such external inspections and/or investigations?**

Not Applicable

- c) What was the local authority's procedure/process for implementing recommendations which followed from such external inspections and/or investigations?**

Not Applicable

### **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?**

There is nothing in the records detailing the impact of abuse on those children in foster care who were abused, or alleged to have been abused apart from one child requiring medical treatment following a physical assault and 9 children were removed from their placements and placed with emergency foster carers.



**Where does the local authority's knowledge/assessment of that impact come from?**

As detailed above there is limited information available.

**b) 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 no record in the files of the impact of the abuse on the families of children who were in foster care.

**c) Where does the local authority's knowledge/assessment of that impact come from?**

We have no information related to this question.

**5.8 Known Abusers and Alleged Abusers****a) Does the local authority know of specific abusers, or alleged abusers, of children in foster care?**

Yes

**b) If so, what are the names of the abusers, and/or alleged abusers?**

Please refer to Appendix 2 (Allegations & Complaints of Abuse)

**c) For each of these persons, please provide as much as possible of the following information:**

- the period (dates) during which they are known or alleged to have abused children in foster care
- if they were foster carers, or if not, their relationship with the foster carers or what other role they had during the period of abuse and/or alleged abuse
- the knowledge sought or received about them by the local authority at the point of approval/registration of foster carers and thereafter
- any information (including regarding abuse or alleged abuse) sought by, or provided to, third parties or future employers at any point after the allegation of abuse was made,

The process for approval/ registration and review of foster carers has been detailed in previous sections in this report.

From the files reviewed there is no evidence of any information (including regarding abuse or alleged abuse) sought by, or provided to, third parties or future employers at any point after the allegation of abuse was made

Please refer to Appendix 2 (Allegations & Complaints of Abuse)

**d) Were known abusers, or alleged abusers, of children permitted to continue as foster carers?**

Yes, in some circumstances.

**e) If so, why was this considered to be appropriate?**

Evidence suggests that following comprehensive internal investigations it was considered appropriate if the allegations and complaints were found to be unsubstantiated or an assessment of the circumstances considered continued registration to be appropriate.

**f) If so, what process of monitoring/supervision followed?**

This was dependent on the nature of the allegation and involved a number of options: increase in monitoring; feedback and discussion with carers to ensure standards were understood; review of foster carers registration and approval by an early review; mandatory training, regular home visits both announced and unannounced; appropriate and adequate support.

**5.9 Specific Complaints**

- a. How many specific complaints of abuse of children in foster care have been made to the local authority?

For each specific complaint, please answer the following:

- b. Who made the complaint?  
 c. When was the complaint made?  
 d. Against whom was the complaint made?  
 e. What was the nature of the complaint?  
 f. When/over what period was the abuse alleged to have taken place?  
 g. What was the local authority's process and approach in dealing with the complaint?  
 h. What was the local authority's process and approach for investigating the complaint?  
 i. What was the outcome of the complaint following that investigation?  
 j. Did the local authority provide a specific response to the complaint?  
 k. If so, what was the form of response e.g. apology, redress, pastoral response or any other type of response?  
 l. If there was no response, why not?  
 m. Was the information/content of the complaint passed to police?  
 n. If not, why not?

Please refer to Appendix 2 (Allegations and Complaints of abuse)

**5.10 Civil Actions**

- a) **How many civil actions have been brought against local authority relating to abuse, or alleged abuse, of children in foster care?**

0

**For each such civil action, please answer the following:**

- b) **Who brought the action?**

Not applicable

- c) **When was the action brought?**

Not applicable

- d) **Against whom was the action brought?**

Not applicable

- e) **What was the nature of the abuse, or alleged abuse, to which the action related?**

Not applicable

- f) **What were the names of the persons said to have, or alleged to have, committed abuse?**

Not applicable

- g) **When/over what period was the abuse said, or alleged, to have taken place?**

Not applicable

- h) **How did the action progress?**

Not applicable

- i) **What was the outcome?**

Not applicable

- j) **Was the action settled on a conditional basis of confidentiality?**

Not applicable

- k) **Who was/were the local authority's legal representative(s) in relation to the civil action?**

Not applicable

- l) Did the local authority carry insurance for meeting civil claims at the time the action was live?**

Not applicable

- m) How/where can copies of the court papers relating to the civil action be made available to the Inquiry?**

Not applicable

### **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?**

There is nothing in our records about criminal injuries compensation.

- b) If so, please provide details if known**

Not applicable

### **5.12 Police**

- a) How many complaints of abuse of children in foster care have been made to the police?**

27

**In relation to each known complaint to the police, please answer the following questions:**

- b) Who was the alleged abuser or abuser?
- c) Did the police conduct an investigation in relation to the complaint?
- d) If so, who conducted the investigations and when?
- e) What was the outcome of the police investigation?
- f) What was the organisation/establishments response?

Please refer to Appendix 3 (5.12 sections a-e - Police)

### **5.13 Crown**

- a) To what extent has the Crown raised proceedings in respect of allegations of abuse of children in foster care?**

Of the records reviewed the Crown has raised proceedings in respect of allegations of abuse of children in foster care on 6 separate occasions.

In relation to each time the Crown has raised proceedings, please answer the following questions:

**b) What is the name of the person(s) against whom the proceedings were raised?**

1. Foster Carers - EQT-EQY
2. EQV (son in law of Foster Carers – )
3. Foster Carer – EQW
4. Foster Carer – EQX
5. Foster Carer – John McCafferty

**c) What was the nature of the charges?**

1. EQT-EQY were charged with assault and breach of the peace under section 12 of the Young Person's Scotland Act 1937
2. EQV charged with Physical Assault (2006)
3. EQW charged with 8 counts of sexual offences against children (2013)
4. EQX charged with sexual offences against children (2010)
5. John McCafferty (Lothian Region carer charged with sexual assault) – details held by City of Edinburgh Council) (1990)

**d) What was the outcome of the proceedings, including disposal/sentence if there was a conviction?**

1. EQT-EQY appeared in court on 91 and pled not guilty. The charges against Mrs EQT were dropped and Mr. EQY was found not guilty of assault but guilty of a breach of the peace.
2. EQV pled Guilty and was convicted of physical assault by punching the child to the face.
3. EQW – Not guilty plea – case was not proven in 2015.
4. EQX – Not guilty plea – case was not proven in 2010.
5. John McCafferty - details held by City of Edinburgh Council (1990)

**e) What was the local authority's response to the proceedings and outcome?**

1. EQT-EQY were both deregistered as Local Authority Foster Carers for West Lothian Council following the outcome of the court case.
2. EQV is the son in law to . Following the outcome of court, the foster carers made the decision to resign from foster caring for the local authority and were subsequently de-registered at foster panel.
3. EQW (strategy meetings, carers suspended) – outcome – deregistration.
4. EQX (strategy meetings, carers suspended) – outcome – deregistration.
5. John McCafferty - details held by City of Edinburgh Council (1990)

