

Scottish Child Abuse Inquiry

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Mr Malcolm Burr
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Council Offices, Sandwick Road
Stornoway
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27 August 2019

Dear Mr Burr

SCOTTISH CHILD ABUSE INQUIRY SECTION 21 NOTICE FOSTER CARE CASE STUDY

1. Notice is given, in terms of section 21(2)(a) of the Inquiries Act 2005 ("the Act"), that you are required by Rt Hon Lady Smith ("the Chair") to provide at the above address the evidence detailed in the appendix attached to this notice by **27th January 2020**.
2. In terms of section 36 of the Act, where a person fails to comply with, or acts in breach of, this notice, or threatens to do so, the Chair may certify the matter to the Court of Session. The Court, after hearing any evidence or representations, may make such order by way of enforcement or otherwise as it could make if the matter had arisen in proceedings before it.
3. In terms of section 35(1) of the Act, a person is guilty of an offence if he fails without reasonable excuse to do anything that he is required to do by a notice under section 21 of the Act. A person who is guilty of such an offence is liable on summary conviction to a fine not exceeding £1000 or to imprisonment for a term not exceeding six months, or to both.
4. If you wish to make a claim in terms of section 21(4) of the Act:
 - (a) that you are unable to comply with this notice, or
 - (b) that it is not reasonable in all the circumstances to require you to comply with it,

and that it should be revoked or varied,
you should apply in writing to the Chair no later than by the end of the period within
which production is required. When so applying you should:

- (a) identify, so far as possible, any particular document in relation to which the claim is being made;
- (b) state whether you seek revocation or variation of the notice, and in the latter case specify the variation sought;
- (c) give reasons for your claim; and
- (d) where it is claimed that it is not reasonable in all the circumstances to require compliance with the notice, the reasons for the claim should address the public interest in section 21(5) of the Act.



.....
The Rt Hon Lady Smith
Chair of the Inquiry

APPENDIX

Part A – Background

1. Characteristics

1.1 History of the Local Authority

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

The local authority area of Na h-Eileanan an Iar, the Gaelic name for the Western Isles, comprises the island chain from Lewis in the north to Vatersay in the south, a linear distance of 170 miles and covering some 1,181 square miles. The principal islands are Lewis, Harris, North Uist, Benbecula, South Uist and Barra, together with a number of inhabited smaller islands within the local authority area.

Until 1975, the Isle of Lewis was part of the county of Ross & Cromarty, while Harris and all islands south of there were part of Inverness-shire. Following local government re-organisation in 1975 a unitary local authority was created for the whole Western Isles area, called initially Western Isles Islands Council, changed in 1994 to Western Isles Council, and also widely known as Comhairle nan Eilean, the preferred Gaelic name. From 1997 the Gaelic name of Comhairle nan Eilean Siar has been used as the sole legal name of the local authority.

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?

The local authorities which have covered the Outer Hebrides have been designated with varying forms of legal responsibility for the care, welfare and protection of children over the period from 1930 to the present day. These are consistent with the responsibilities and duties bestowed on all other Scottish local authorities over the same time frame.

Between 1930 and 1948, approval was received from the Secretary of State for Council schemes covering Education, Lunacy and Mental Deficiency, Public Assistance and Public Health. Councils were responsible for providing Public Assistance (formerly under the Poor Law (Scotland) Act 1845) encompassing the care, welfare and protection of children. The pertinent legal framework was provided by the Children Act 1908, the Children and Young Persons (Scotland) Acts, 1932 and 1937 and the Children Act 1948.

There is evidence of a circular letter (No 18) of 29th June 1931 from the Department for Health for Scotland in regard to the duties resting upon Public Assistance Authorities in dealing with orphan, deserted or separated children who have become chargeable to the authorities. The circular was reported as dealing generally with the boarding-out system which had been in operation in Scotland for many years.

Public Assistance Circular 1934 was written by the Secretary for the County Clerk/Town Clerk following the Poor Law Scotland Regulations 1934. It states “*For many years the policy has been that children should not be brought up in the environment of the poorhouse, and the boarding-out system has long*

been a successful feature of Scottish poor law administration, though hitherto it has been without specific statutory foundation. Experience has shown that the success of the system depends upon (a) care and judgement in the selection of suitable guardians; (b) the limitation of the number of children boarded with each guardian; (c) the limitation of the number of children boarded in a particular district; and (d) the thoroughness of inspection and supervision”.

Regulations which guided local authorities in the execution of their duties were, in sequence:

- The Children and Young Persons (Scotland) Care and Training Regulations, 1933
- The Children (Boarding-Out etc.) (Scotland) Regulations, 1947,
- The Boarding- Out of Children (Scotland) Regulations, 1959.

In 1968 the seminal piece of legislation the Social Work (Scotland) Act became law, setting out, among other things, the general welfare duty of the local authority and establishing the Children’s Hearing system.

Norrie (2017) describes definitively the changes which emerged with the development of the Boarding Out and Fostering of Children (Scotland) Regulations 1985. It is noted:

“Boarding-out of Children (Scotland) Regulations, 1959 continued to apply until 1st April 1986, when they were revoked and replaced by the Boarding-out and Fostering of Children (Scotland) Regulations 1985. While the 1959 Regulations were based on the understanding that boarding out was a long-term solution, the 1985 Regulations perceived fostering as a temporary placement, reflecting the shift presaged by the 1968 Act from replacement families to short-term non-institutional care. This is probably why the provisions in the 1959 Regulations permitting boarding-out outside Scotland and allowing the Secretary of State to limit the number of children boarded out in particular areas were not repeated in the 1985 Regulations”.

“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” and to make recommendations to the care authority as to the suitability of such a person to act as a foster parent either for any child, any category of child or any particular child”.

“The other major innovation in the 1985 Regulations was that the care authority became obliged to enter into an agreement with approved foster parents regarding the care to be provided for any children who might be placed with them, including details of the financial arrangements; the care authority’s policies and practice regarding the welfare of children for whom it had responsibility, the ways foster parents would be expected to follow these policies and practices and the assistance to be provided by the care authority to that effect; and the arrangements made by the care authority to review “at appropriate intervals” its approval of foster parents for the purposes of the regulations”

The Boarding-out and Fostering of Children (Scotland) Regulations 1985 were revoked and replaced 11 years later by the Fostering of Children (Scotland) Regulations 1996.

The Arrangements to Look After Children (Scotland) Regulations 1996, which required local authorities to make a care plan for each child looked after by them (whether in foster care, in a residential establishment, or otherwise), also came into force on that date.

The Fostering of Children (Scotland) Regulations 1996 were themselves revoked by the Looked After (Children (Scotland) Regulations 2009 which continue to dictate public fostering through to the present date. Norrie (2017) argues one of the main developments at this time was that from the implementation of these regulations in 1996 there has been no limitation on the ‘type of family structure’ that potential foster carers offer. Each carer is assessed on their own merits without ‘legally specified preconceptions about their lifestyles’.

From 1995 onwards all local authorities were required to provide accommodation for children and young people who they are looking after and who are not able to live with their birth parents for whatever reasons, whether for short or long periods of time. This is provided for in s.26 of the Children (Scotland) Act 1995. One of the ways in which accommodation may be provided is foster care, s.26(1)(a)(iii).

The Regulation of Care (Scotland) Act 2001 dictated that all fostering services have to be registered with, and inspected by the Care Commission. This is the public fostering service which is mentioned in s.2 (14) (a) and (15) of the Act. Registration for public fostering services operated by local authorities is under Part 2 of the 2001 Act. It is important to distinguish between the public fostering service and the Council’s duties under private fostering legislation, the Foster Children (Scotland) Act 1984 and the

Foster Children (Private Fostering (Scotland) Regulations 1985). These Procedures do not cover private fostering.

The 1995 and 2001 Acts are important legal foundations for the service today in the Western Isles, however there are other more recent Acts, regulations, guidance and care standards which have impinged on the provision.

Equality Act (Sexual Orientation) Regulations 2007 (S.I. 2007/1263) made under the Equality Act 2006;
Adoption and Children (Scotland) Act 2007 and the regulations made under it;
National Fostering and Kinship Care Strategy; and
Protection of Vulnerable Groups (Scotland) Act 2007,
Looked After Children (Scotland) Regulations 2009.
Guidance on Looked After Children (Scotland) Regulations 2009,
The Adoption and Children (Scotland) Act 2007.
Adoption Agencies (Scotland) Regulations 2009
Children's Hearings (Scotland) Act 2011 imposed statutory duties on the organisation.
The Children and Young People (Scotland) Act 2014

The Public Bodies (Joint Working) Act 2014 has changed the local authority landscape with fostering services across the country now being organised in different ways. In some authorities children's services are within the integrated arrangements in others they remain the responsibility of the local authority. Children's Services in the Outer Hebrides remain the responsibility of the Comhairle.

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

See response to 1.1 (b)

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?

In short foster care was, and continues to be funded from central government funding and local taxation. The exact mechanism for this has varied over time.

For example Norrie (2017) points out that there is reference, following the introduction of the Children and Young Persons Act 1932, to fostering becoming "a major component of state care". He states further "*committal to a fit person was possible for any child or young person who was in need of care and protection or who had committed an offence. Every Education Authority was deemed a fit person with the Treasury bearing the cost.*" and that the only mechanism available to them was "*to board them out with private families- in other words, fostering.*"

He further notes reference in legislation such as the Children and Young Persons (Scotland) Act 1937 and the Children Act 1948 to "grants paid to local authorities" and to "monies provided by parliament to local authorities" to support the carrying out of their duties under these Acts.

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

There is insufficient information available to allow this question to be answered definitively over the bulk of the period defined as the past. Due to pragmatic considerations such as transport, geography and the relatively small numbers of children involved it is expected that most children were cared for in or close

to their home communities by people from these communities. Certainly within the relatively modern era, although covered by the Inquiries definition of the past, there are only a few isolated examples of the local authority providing for foster care through third parties. In these instances it was through national level charities such as Action for Children and Barnardo's

Within the Comhairle's own 'Fostering Procedures, Policies and Practice Guidance' there is reference to 'Arrangements with Voluntary, Non for Profit Organisation'. Although the guidance exists there has been very little use of such placements.

- 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?

There is insufficient information to answer this question for the bulk of the period defined as the past. In the few more recent examples the local authority has contracted for a small number of placements. To the best of our knowledge this covers 7 children. 3 of these are a group of siblings. In the 18 months two children were placed with prospective adopter on a fostering basis while their direct petition for adoption progressed through the court system.

The Comhairle has only used such placements when a suitable placement in the child's home community was not available. Section D of the Comhairle's 'Fostering Procedures, Policies and Practice Guidance' sets out criteria to ensure the Comhairle meets the needs of the children and young people they are looking after, fulfils statutory duties and that appropriate arrangements are made to manage placements with non-Comhairle foster carers.

The placements were with Inspire Scotland, Barnardo's and Action for Children.

- 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)?

It is not possible, from the information available, to answer this question for the bulk of the period defined as the past. Certainly in the recent past support has been received via the local authority.

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

In terms of the historical legal framework the Children and Young Persons (Scotland)act 1937- s 88 (3) "An Education Authority may board out children and young persons committed to their care for such periods and on such terms as to payment and otherwise as they think fit..."

To what extent the local authority made payments they 'thought fit' is not clear from the information available. Within living memory retired senior staff can recall that the ethos was to ensure that families were not 'worse off' due to caring for foster children.

From 2011 this local authority has paid allowances and fees.

- 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?

See response to 1.2 (a) & 1.2 (e)

It would appear until recent times foster carers were supported by public funds on the basis of avoiding financial hardship for the foster carers.

As stated previously from 2011 the Comhairle has paid allowances and fees.

- 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?

There is insufficient information available to answer this question for the bulk of the period defined by the Inquiry as the past.

Since 2011 the local authority has held recruitment events during which this aspect of being a foster carer would be covered. Since that time fees and allowances have been paid to foster carers.

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

It is clear from historical records that residents of the Outer Hebrides could and did apply to Parish Councils for financial assistance. There were other sources of financial assistance from voluntary funds such as the ones set up following the Iolaire disaster. There is no obvious indication whether such assistance was offered to families that would now be deemed as foster carers.

Foster carers would have been able to claim various social security benefits in line with those available to any member of the general public.

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

Even up to more recent times the concept was to ensure that foster carers were 'no worse off' caring for children than they would have been otherwise. In that we now contract foster carers via fees and allowances it would be hard to claim, judging matters through the lens of today's values and standards, that historical funding was adequate. Nevertheless the funding provided for foster carers in the Western Isles would have been congruent in ethos with that available in most local authority areas at whichever time in history. Additionally, social workers were able to request additional funding as deemed appropriate for expenses highlighted by carers. Since 1968 this could be done under Section 12 of the Social Work (Scotland) 1968.

- j) If not, why not?

Foster care as a concept and role has developed massively over the period of time covered by the Inquiry. Foster care was not seen as a 'profession', 'career' or 'job' over much of the historic period covered. Indeed for much of the time it could be seen as a moral imperative. Within the historical context of the Outer Hebrides with poor communication and transport links, very isolated communities and large families there was a fundamental need for communities and extended families to look after 'their own'. It would not be surprising that many of those who would now be deemed foster carers or kinship carers simply saw themselves as doing the right thing.

As our concept of foster care has evolved so has there been a parallel need to consider the increasing support of such families. We have moved from support when there was 'hardship' to ensuring there was 'no detriment' to offering fees and allowances. The financial support in the past was less however the cultural context was also vastly different.

Present

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

No, there have been no significant changes in the last three years.

- l) If so, please give details.

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?

See response to 1.1 (a) and 1.1(b).

Poor Law Scotland Regulations 1934 state "The Department of Health for Scotland, in exercise of the powers competent to them under sections 9, 10 and 12 of the Poor Law (Scotland) Act, 1934, and of all other powers enabling them in that behalf, hereby make the following regulations:- ...Part III – Boarding-out of children and placing of children in institutions other than poorhouses".

Adoption Agencies (Scotland) Regulations 1984 contained a Scheme for the Establishment of Adoption. Function 6 states that each panel, in relation to their area, would "Consider applications by persons for approval as prospective foster parents", and under Function 7 "consider the placement of particular children with approved foster parents in appropriate cases".

Nothing in the Regulations or the accompanying SWSG Circular makes specific reference to the panel's composition, although Regulation 5 does place a duty on the care authority to satisfy itself that the numbers, qualifications or experience of individual members enables it to effectively discharge its functions

Boarding Out and Fostering of Children (Scotland) Regulations 1995; Regulation 4 specifies that a care authority must appoint a fostering panel. Regulation 6 in describing the panel's function, states that a fostering panel shall consider every person referred to it by the care authority as a prospective foster parent, and that they shall make a recommendation as to whether such a person is suitable to be a foster parent. The panel must also recommend whether they consider the foster parent to be a suitable carer for any child to whom the Boarding Out Regulations apply, certain categories of children to whom the Regulations apply, or a particular child or particular children.

The Looked After Children (Scotland) Regulations 2009 continue to dictate public fostering through to the present date. Norrie (2017) argues one of the main developments at this time was that from the implementation of these regulations in 1996 there has been no limitation on the 'type of family structure' that potential foster carers offer. Each carer is assessed on their own merits without 'legally specified preconceptions about their lifestyles'.

- 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.

See response to 1.1 a) and 1.1b).

There are a number of examples:

Public Assistance Circular 1934 was written by the Secretary for the County Clerk/Town Clerk following the Poor Law Scotland Regulations 1934. It states "It will be noted that Article 25, which deals with the making of rules to be observed by guardians, requires that those rules shall ensure that a guardian does not make use of the services of any boarded-out child for the purpose of any trade, business or calling carried on by him, except in the performance of such light agricultural or horticultural work as may be done by the child without risk of injury to the child's health or of detriment to his educational progress and general welfare. Authorities are reminded, however, that the employment of children in general is regulated by Part IV of the Children and Young Persons (Scotland) Act, 1932, and by any by-laws made by education authorities under that Act. Article 25 of the regulations imposes an additional restriction upon the work that may be performed by boarded-out children. Care should be taken by authorities that the rules for guardians do not permit employment which is prohibited by the statute or by-laws made under the statute or by the Department's regulations". Clearly this regulation resonates with children being cared for in remote island crofting communities where 'light agricultural or horticultural work' for children would be the norm over the reach of history.

The Boarding-out and Fostering of Children (Scotland) Regulations 1985 outline that the authority had responsibility for appointing foster carers in accordance with Schedule 1 of the Act. The authority approved foster parents under regulation 7 of the Act.

There are recognised legal duties outlined in various pieces of legislation and guidance which are outlined in the Comhairle's 'Fostering Procedures, Policies and Practice Guide'. These include duties to:

- Plan and manage the service
- Ensure the professional competence and management of the foster care service.
- Making placements
- Reporting of significant incidents
- Foster carer recruitment, preparation and assessment
- The fostering panel
- Payments
- Training & support
- Record keeping about foster carers
- De-registration
- Complaints by carers and allegations against carers.

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

Yes, see response to 1.1 (a) and 1.1(b).

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.

(ii) Foster carers

Past

a) Did foster carers have a special legal, statutory or other status?

No.

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

In terms of the Children (Boarding-out)(Scotland) Rules and Regulations 1947 "foster -parent" was defined to mean "a husband and wife ,or a woman, with whom a child is boarded out by a local authority." Since the coming into force of the Looked After Children (Scotland) Regulations 2009 there has been no limitation on the type of family structure that potential foster carers must belong to and foster carers are assessed as suitable according to their own merits....the local authority is responsible for approval of foster carers..." Norrie 2017.

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

This was based on the legislation applicable at the time and on the regulations made thereunder.

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

This was based on the legislation applicable at the time and on the regulations made thereunder.

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

Children (Boarding-out etc) (Scotland) Rules and Regulations 1947 - "foster- parents shall accordingly bring up a child placed by the local authority in their custody as one of their own children and devote to this duty the care which good parents give to their children". Norrie 2017.

Children's Hearings (Scotland) Act 2011 can set out requirements in a Compulsory Supervision Order which a foster carer, or anyone else in a caring role, would have a duty to adhere to.

Present

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

There have been no legal changes in the last three years, however the promotion of the Permanence And Care Excellence (PACE) agenda has emphasised the message that fostering is a short term activity and the purpose is both to offer short term care and also to potentially prepare a child for a move to permanence whether rehabilitation home or to substitute care.

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, see response at 1.1 (b).

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

The legal responsibilities are those laid out in the relevant statutes and regulations that pertained at the time. These are already laid out in previous answers.

Examples are:

Independent Visitation Memo 1934: The memo states, “regarding independent visitation of boarded-out children as called for by the poor relief regulations (Scotland), 1934 – Statutory Rules and Orders, 1934, No 1296/S.69”. Section 21 of the regulations states that where a child is boarded-out in the area of another local authority, the child is to be supervised by a ‘reliable’ person and a report provided every 6 months on the circumstances of the child

Poor Law Scotland Regulations 1934 states under Part III of the regulations that:

“11. A local authority shall not board-out a child without a certificate of a medical officer of the local authority as to the child’s bodily health and mental condition and as to his suitability for boarding-out.

“12. A child shall not be boarded out in a house –

- a) Which is so situated, or in such sanitary condition as to be injurious or dangerous to his health;
- b) Which is not within reasonable distance from a school; or
- c) Which does not permit of suitable sleeping accommodation for the child in a room properly lit and properly ventilated.

“13. So far as reasonably practicable, a local authority shall board-out children of the same family in the same house.

“14. Except with the sanction of the Department –

- a) Not more than three children shall be boarded-out in the same house at the same time, unless all the children are children of the same family; and
- b) A child shall not be boarded-out in a house in which there are more than three other children resident unless one or more of these children is a brother or sister of the child to be boarded-out.

“15. If the number of children in a house in which a child is boarded-out by a local authority subsequently exceeds four, including that child, the child shall, unless the child is a brother or sister of one or more of the boarded-out children resident in the house or unless the Department otherwise direct, forthwith be withdrawn.

“16. A child shall not be boarded out or be allowed to remain boarded-out –

- a) In a house in which a certified lunatic or mental defective is residing;
- b) With a guardian occupying or residing in a house or premises licensed for the sale of excisable liquor;

- c) In a house where any member of the household has at any time been convicted of an offence which, in the opinion of the local authority, renders him unfit to be associated with a child; or
- d) With a guardian other than a relative, of a religious persuasion different from that to which the child belongs.

“17. A local authority shall, before boarding-out any child with a guardian, satisfy themselves that the guardian is of good character and of industrious habits, and is a person who is in all respects fit to look after the health, education and general well-being of the child.

“18. A local authority shall ensure that when a child is first boarded-out he is provided with sufficient boots and stockings and at least two outfits of outer and of under-clothing, and that thereafter the child is kept supplied with boots and stockings and suitable clothing, and for that purpose they may arrange with the guardian for an adequate supply of the same.

“19. A local authority shall arrange for the provision of the necessary medical attendance on every child boarded-out by them and for his receiving necessary dental treatment, medicines and medical or surgical appliances and extras ordered by the medical attendant and shall notify the guardian of the arrangements made.

“20. Where a local authority board-out a child in the area of another local authority, they shall immediately furnish that authority with particulars of the child and with the name and address of the guardian with whom he has been boarded-out.

“21. Where a local authority board-out a child in the area of another local authority, they shall make suitable arrangements for the child's supervision. Such arrangements shall include provision for the child to be supervised by some reliable person resident in the district where the child is boarded-out, and for the person by whom the child is supervised to furnish to the local authority a report every six months on the matters specified in paragraphs (a) to (h) inclusive of Article 23 of these regulations.

“22. A local authority shall in January of each year furnish the local authority of each area in which a child is boarded-out by them with a list giving the name, age and religion of each child boarded-out by them in that area and the name and address of his guardian.

“23. Unless the Department on the application of a local authority in any particular case otherwise direct, every child boarded out by a local authority shall be visited at least once in every twelve months by an inspector of the local authority who may be accompanied by not more than two members of the local authority, and the inspector and the members, if any, shall furnish to the local authority a report with respect to –

- a) The general conditions of the home where the child is boarded-out, including the suitability of the guardian;
 - b) The sleeping arrangements for the child and the condition of his bed, bedclothes and night apparel;
 - c) The condition of the child's clothing;
 - d) The child's health, general welfare and behaviour;
 - e) The progress the child has made at school;
 - f) The manner in which the child is occupied out with school hours;
 - g) Any complaints made by, or concerning, the child; and
 - h) Any other matters relative to the care and supervision of the child by the guardian or to the child's welfare which they consider should be reported;
- and the local authority after taking any necessary action on such report shall retain it for reference.**

“24. Where the local authority have reason to believe that a guardian is party to any contract for the purpose of ensuring the payment to him a sum of money upon the illness or death of the child boarded-out with him, they shall forthwith withdraw the child from the guardian.

“25. A local authority shall make rules to be observed by guardians and shall furnish the Department with a copy of such rules. The rules shall contain provisions for ensuring the general welfare of every boarded-out child, including provisions with regard to general training and discipline, attendance at school, feeding, clothing, sleeping accommodation and medical attendance and for ensuring that no guardian shall make use of the services of any boarded-out child for the purposes of any trade, business or calling carried on by him except in the performance of such light agricultural or horticultural work as may be done by the child without risk of injury to the child’s health or of detriment to his educational progress and general welfare.

“26. Where it appears to the Department that an excessive number of children is boarded-out in an area, the Department may, after consultation with the Scottish Education Department, give intimation of such excessive boarding-out to any local authority who have boarded-out children in that area and the local authority shall, within the time prescribed by the Department, reduce the number of children so boarded-out by them to such number as the Department may require.

“27. No child shall be boarded-out in any area which the Department, after consultation with the Scottish Education Department, have declared to be unsuitable for that purpose.

Public Assistance Circular 1934 was written by the Secretary for the County Clerk/Town Clerk following the Poor Law Scotland Regulations 1934. “Generally speaking, the regulations do not introduce any radical changes in the arrangements hitherto in force in the spheres of poor law administration covered by the regulations...Part III (boarding-out of children) incorporates in regulation form many of the recommendations made by the Department and their predecessors in various administrative circulars, particularly in the Department’s Public Assistance Circular No. 18, dated 29th June 1931”.

Such regulations pertaining to responsibilities have clearly been updated by the legislation set out on 1.1 (b)

The introduction in 2010 to the Comhairle’s ‘Fostering Procedures, Policies and Practice Guide’ gives a sense of the current legal responsibilities:

“All Local Authorities are required to provide accommodation for children and young people who they are looking after and who are not able to live with their birth parents for whatever reasons, whether for short or long periods of time. This is provided for in s.26 of the Children (Scotland) Act 1995. One of the ways in which accommodation may be provided is foster care, s.26(1)(a)(iii).

This is the public fostering service which is mentioned in s.2 (14) (a) and (15) of the Regulation of Care (Scotland) Act 2001. All fostering services have to be registered with, and inspected by the Care Commission under the 2001 Act. Registration for public fostering services operated by local authorities are under Part 2 of the 2001 Act. It is important to distinguish between the public fostering service and the Council’s duties under private fostering legislation, the Foster Children (Scotland) Act 1984 and the Foster Children (Private Fostering (Scotland) Regulations 1985). These Procedures do not cover private fostering.

Philosophy and values

All Councils, when taking on the role of parent whatever the legislative basis for placements, must provide a safe environment, one which helps children and young people have their educational, emotional and developmental needs met and which takes account of their traumatic/damaging life experiences and missed opportunities. There must be opportunities for children and young people to maintain appropriate contact with their birth families, provided it is in their interests, in terms of s.17(1)(c) of the 1995 Act. In placing a child or young person, the Council must take account of religious, cultural and ethnic factors in children and young people’s backgrounds, in terms of s.17(4)(c) of the 1995 Act. And the views of children and young people, and of their families, must be taken account of in terms of s.17 (3) and (4) of the 1995 Act.

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

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

People holding parental responsibilities and rights continued to have some legal responsibility for their children while they were in the care of the organisation.

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

Parental rights and responsibilities are now as defined in the Children (Scotland) Act 1995. Prior to that, the Social Work (Scotland) Act 1968 refers to 'rights and powers' without further definition.

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

Not applicable to any situations which we have reviewed in the Western Isles.

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.

(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?

Norrie 2017 –" In terms of the Children and Young Persons (Scotland) Act 1932, the person to whose power the boy or girl is committed shall, whilst the order is in force ,have the same rights and powers, and be subject to the same liabilities in respect of his or her maintenance, as if he were his or her parent. The Children and Young Persons (Scotland) Act 1937 replicated this provision. The provision was repealed in the Social Work (Scotland) Act 1968 and no equivalent provision was enacted."

Thereafter, those employed to provide care at the establishment would have undertaken the provision of care for the child on behalf of the organisation. In terms of the Fostering of Children (Scotland) Regulations 1996, "to foster was stated to mean to "arrange for a child to live as a member of the family of a person who is not a parent, does not have parental responsibilities in respect of the child and who is not a relevant person in relation to the child and who undertakes to look after the child other than in accordance with the Adoption Agencies (Scotland) Regulations 1996." Norrie 2017

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

See response to 1.4 (ii) a.

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?

See response at 1.1 a) and 1.1 b).

There is reference in one file to a local Explanatory Memorandum which dates from around 1975. This memorandum describes what would now be termed corporate parenting. It was each department's responsibility to meet the needs of children.

In the introduction to the Comhairle's 'Fostering Procedures, Policies and Practice Guide' it is stated:

"Philosophy and values

All Councils, when taking on the role of parent whatever the legislative basis for placements, must provide a safe environment, one which helps children and young people have their educational, emotional and developmental needs met and which takes account of their traumatic/damaging life experiences and missed opportunities. There must be opportunities for children and young people to maintain appropriate contact with their birth families, provided it is in their interests, in terms of s.17(1)(c) of the 1995 Act. In placing a child or young person, the Council must take account of religious, cultural and ethnic factors in children and young people's backgrounds, in terms of s.17(4)(c) of the 1995 Act. And the views of children and young people, and of their families, must be taken account of in terms of s.17 (3) and (4) of the 1995 Act.

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

The Particular Needs of Children being looked after and accommodated

Children and young people placed in foster care have a lot of specific and individual needs. All will experience loss, trauma, disruption and dislocation of, and from, everything that is familiar. This will be so, even if there are aspects of their home circumstances which have been very detrimental and traumatic.

Some will have had experience of physical, emotional and sexual abuse and neglect. They will have experienced a combination of trauma and inconsistency in the provision of positive experiences. These experiences will often be seen in their behaviours. It is important that foster carers understand the very special tasks that are involved in caring for a child with these experiences."

- 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?

See response to 1.5 (a).

- 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?

It is difficult to comment on changes in the ethos of the local authorities which had responsibility for the Western Isles over time with the relative paucity of information available. It is clear that in line with moves in the national ethos as expressed through legislation and guidance that there was move from fostering aiming to be a long term or permanent provision of care, to a position where fostering is a short term substitute care placement. Fostering moved from an experience offered by the carer on philanthropic or moral grounds to one which requires regulation, training, supervision and support. Financial support moved from ensuring foster carers were not left in financial difficulty to ensuring there was 'no detriment' to today's fostering allowances and fees.

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

See responses to 1.5 (a) and (c).

- 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?

See responses to 1.5 (a) and (c).

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

See responses to 1.5 (a) and (c).

Present

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

In general terms the ethos remains the same as the quote in 1.5 (a) on the philosophy and values with which the Comhairle approach the area of foster care. In recent times the Permanence And Care Excellence guidance has focused practice on securing permanence for Children in foster care – legal and care permanence.

- h) If so, please give details.

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?

The number of children accommodated at any one time and the number of placements varied in accordance with assessed need at that juncture. From available records and within living memory of retired senior staff it is considered that there would always be a minimum of approximately ten registered foster placements and, at times, up to fifteen registered placements. This would result in the potential to accommodate between fifteen and twenty children, very often in family groups.

- 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?

From the review of files it would appear that 90-100% of placements were in use at most times.

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

The review of the files leads to the conclusion that the files do not accurately record all the detail of all placements. As such it is not possible to accurately answer this question. Prior to the most recent period placements were not recorded fully in the foster carer's files but rather included in children's files.

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

There were no 'material changes' noted from the review of files.

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

The review team are aware that historically the Comhairle would have returned figures on children and young people in care to the Social Work Services Group. While hard copies would have been held by the Comhairle it has not been possible to locate this information. It is presumed these are still sit in central government records.

On examining the answer to this question it has proven difficult to ascertain exact numbers even from the inception of electronic recording. Since 2008 we have 141 episodes of care recorded on our Care First system however that does not equate to 141 children. For example if a child remained in the same placement over two accounting periods this would show as two episodes of care. Equally a child who was accommodated, went home and was re-accommodated would count as two episodes of care. What can be said with certainty is that there have been fewer than 141 children accommodated in the Western Isles since 2008, most probably significantly fewer than that.

- 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?

It is not possible to answer this question definitively for the bulk of the period of time defined as the past.

Until 1998 the local authority did directly manage a small residential group home. Since 1998 Action for Children have run the only residential establishment on the islands which offers 4 beds for looked after

and accommodated children and young people. Due to the geography of the local authority area the residential provision has generally only serviced the needs in Lewis rather than the whole of the island chain.

As the number of on island residential beds has to the best of our knowledge always been small it is reasonable to conclude that foster care has been the dominant model of service provision for children and young people requiring to be looked after away from home.

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 number of foster placements remains approximately static at around ten in total with minor yearly variations.

The Comhairle does not directly manage any residential facilities and as such our direct provision for children and young people who require accommodation is solely foster care.

1.7 Children's Background/Experience

Past

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

For the children whose files have been reviewed it is clear that there was a range of backgrounds and circumstances. It perhaps self-evident that children placed in foster care shared the experience of their parent (s) being unable to adequately meet their needs. This was however due to a number of factors; lack of parenting capacity, alcohol misuse, mental illness, learning disability, domestic violence, family breakdown, lack of parental control and child being out with parental control.

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

All children were committed into the care of the local authority.

- c) Who placed children with the local authority?

All children and young people were placed by the local authority.

- 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?

From the review of the available files children were mainly accommodated through a 'voluntary' route without the involvement of the Children's Hearing system. As matters progressed and developed the majority of placements appear to have then been confirmed via the Children's Hearing system. Cases where parental consent and co-operation continued and placement remained on a 'voluntary basis' were in the clear minority.

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

See 1.7 d.

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

Due to the small numbers of placements involved in the Western Isles it is dangerous to conclude there were any patterns as one or two cases can skew what is 'typical'. Notwithstanding this it appears that children tended to remain in care for a period of six to twelve months. However the range is from a few days or weeks through to many years. The length of stay was generally dictated by progress made in parental abilities / a reduction in the potential for neglect.

- 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?

It is not possible to definitively answer this question for the majority of the period defined as the past.

Prior to a specialist team being in place, senior social work management (e.g. Team Leader, Service Manager) in consultation with the case worker took the decision to accommodate a child if this action had to be taken at a time out with the usual timescale of the review system.

In 2010 it was made clear in the Comhairle's 'Fostering Procedures, Policies and Practice Guide' that there was a joint decision-making process involving the child's Social Worker, their manager and the manager of the fostering service.

The files which were reviewed would indicate this has predominantly been followed.

Accommodation in an emergency or out of hours situation would be dealt with by duty managers before being passed back to those named in the Fostering Procedures, Policies and Practice Guide.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

The Fostering Procedures, Policies and Practice Guide' which first came into force in 2010 it is clear that the foster placement should be in the child's best interests, 'providing a safe environment which helps children and young people have their educational, emotional and development needs met and which takes account of their traumatic / damaging life experiences and missed opportunities'.

Later in the same guidance it notes the following key policy and practice issues:

- Balancing the needs for crisis placements and planned placements and appropriate use of resources
- How many placements are appropriate for a carer
- Having good information available at the time of placement

- Consideration of any other children already in placement.

The review of the files would suggest that removing a child from their parental home occurs either in a planned manner or in response to an emergency situation. If a child is at risk of abuse or has been abused the criteria applied focusses on their immediate protection and where that can best be achieved out with the home. In other circumstances where after ongoing contact with a family the assessment of the parental capacity or the problem areas within the home is such that insufficient progress has been made then a more planned approach is possible. In such cases criteria considered would be child's experiences, parental capacity, prospect of change/improvement occurring, child's stage in life, child's development, parental views, family support networks, family relationships.

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

Yes.

- j) If so, in what circumstances?

It is not possible to definitively answer this question for the majority of the period defined as the past.

It is always the aim to limit placement changes. However, if a placement is made on an emergency basis and the information available on the child and their family is limited e.g. a family who were previously unknown then once further assessment is carried out and the placement is required for a longer term then in such cases a change may be appropriate in matching the needs of the child to a particular placement. For example, finding a placement that is nearer child's school or to enable the child to participate in other activities. In other circumstances placements have disrupted owing to the behaviour of the child, a change in the carer's circumstances, carer and child not having a positive relationship. In some cases, a change was made to reflect the developmental needs of the child and therefore such moves were looked on as positive.

The review of the files would suggest changes of placement were carefully considered in light of the presenting circumstances and in response to a crisis occurring all efforts would have been made through discussions with social work management and carers to avoid the placement breaking down.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

Please note the previous comment that due to the low numbers of placements it is hard to draw conclusions on patterns or what 'typically' might be happening. It does however seem, from the review of files, that children and young people tend to stay in the one placement throughout their period in care. Where there were moves this tended to be in young people in their adolescence. Behavioural issues and responses to the carer's management style were the crux of most such breakdowns / moves of 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?

It is not possible to definitively answer this question for the majority of the period defined as the past.

In the period which spans the latter stages of the past and into the present this would be done through the LAC review system, potentially child protection system if the children had been placed due to child protection concerns or for those on Compulsory Supervision Orders through the Children's Hearing system.

Reviews were carried out by the Local Authority and addressed the areas for action which had been identified and which informed whether the child required to remain in care and whether the circumstances leading to accommodation had been alleviated. The reviews also considered the placement and whether this continued to be suitable in relation to the child's needs. Foster carers participated in the review.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

The circumstances around a child leaving foster care would be idiosyncratic to that child. In the period which spans the latter stages of the past and in to the present it would be the aim for this to be done in a planned way through the LAC processes.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

It is clear from the review of the available files that this depends on the circumstances in which the children and young people left placement. Some left care to return home and would still have involvement from social work, possibly through a supervision order, until it was deemed unnecessary. Others left through moving onto further education. Each situation required a bespoke approach. It is worth noting that prior to the 1995 Act young people at 16 were considered to be young adults and they would have been directed towards services in relation to such things as housing, state benefits and employment.

With the more recent Through care & Aftercare expectations there was recognition that young people leaving care required more formal support systems and tailored plans were put in place. Locally in 1990's there was group housing provision (Tighsiar) which was developed by SW and Housing to provide support for independent living. Most recently foster carers who had retired from fostering offered supported lodgings to care leavers. In some cases, foster carers continued to offer their home to the young people as their "family home" for example when they returned home from study/working on the mainland and this continued into adulthood.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

In that there is no information of this kind available to the review team it has to be surmised that such information was not routinely kept in the past. From the practice knowledge of retired staff the information sought would concentrate on practicalities such as accommodation, employment and training and referral to adult services if required.

In the period which covers the latter stages of the past and into the present this information was picked up routinely through the LAC review processes. This is contained in individual files rather than through a collective data set.

p) Was such information retained and updated?

See answer to 1.7 (o).

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

Continuing Care introduced by Part 11 of the Children and Young People (Scotland) Act 2014 has led to an increased emphasis on good practice in this area. As such the period of time which spans the latter stages of the past and into the present has seen tighter practice in this area. The offer of Through Care & After Care Pathway support until the young person reaches 26 years old.

Present

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

The answer to this is not a simple yes as practice has been evolving over the last few decades and there was no sudden change in December 2014. Practice is continuing to evolve.

- s) If so, please give details.

In the examination of the latter stages of the period defined as the past by the Inquiry there was clear evidence of an evolution of practice taking place. This has continued. For example:

- The continuing care agenda is still progressing. Young people are staying longer in placement into their late teens and beyond.
- There is a Scottish Government Education Bursary for care experienced young people. Exploring the role of foster carers as a connection for life to support academic holidays.
- Improved training for foster carers to understand and cope with the challenges of various stages of life including adolescence. For example foster carers from the Western Isles attended Dyadic Developmental Psychotherapy training.
- There is a greater focus on permanency planning.

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?

We are unable to answer this question from available records for the period defined by the Inquiry as the past.

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

From the establishment of the Comhairle as a local authority in 1975 through to 1993 there were in the region of 10-15 local authority employees who had some responsibility for fostering services. These were social workers and their managers. During this period social workers would carry a generic case load including supporting foster carers.

In 1993 a specialist social worker was appointed to specifically work with foster carers although this was still within the structures of the social work practice team.

In 2009 children and families social work became part of the Education & Children's Services Department of the Comhairle. At the same time a specific Fostering & Adoption Team was set up. This consisted of a Team Leader and social worker. This remains the case through to the present time.

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

See answer to 1.8 (1) b.

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

Staff with responsibility for supporting foster carers have, since the Comhairle became responsible in the mid-1970s, been social work qualified to the standard expected at the time. The level of experience has varied significantly from the time when such support was part of a generic case load through to the specialist team we now deploy in this area.

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

Prior to 1985, and from the files reviewed, there is evidence that the functions of a fostering and adoption panel were undertaken in the Western Isles by a group called the Child Care Group. The group met to consider all applications for fostering and adoption and its membership consisted of senior social work management and a medical advisor.

"One of the major innovations of the 1985 Regulations (Boarding- Out and Fostering of Children Regulations 1985) 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" and to make recommendations to the care authority as to the suitability of such a person to act as a foster parent either for any child, any category of child or any particular child". Norrie 2017.

The Comhairle's 'Fostering Procedures, Policies and Practice Guide' which first came into force in 2010 states:

"The statutory functions of the fostering panel are to make recommendations to the Agency Decision Maker (Head of Children's Services) on:
Whether to recommend the approval of applicants as foster carers or not to recommend them;
Whether the panel should be continued for further information. If recommending approval, the remit of the carers, that is whether the approval is for

- o *a particular child or children;*
 - o *any child; or*
 - o *certain categories of children.*
- Where the recommendation is for certain categories, it should list:*
- o *the age of children and young people to be fostered;*
 - o *the number of children and young people to be fostered;*

- *any time-limits such as short-term, long-term, permanent, etc.*
- *whether for respite care/shared care.*

There is a duty that all first "annual reviews" of carers must be considered at the fostering panel and every 3 years thereafter. This is in line with the Looked After (Scotland) Regulations 2009.

In addition to these statutory functions, the Fostering Panel should be used for:

Consideration of any changes in registration approval;

Consideration on continued registration/ re-approvals where there have been concerns;

Consideration of the annual reviews of carers;

Recommendations in relation to termination of approval;

Giving advice on linking and placement of children in particular circumstances where the panel's expertise would be helpful; and

Consideration of applications by foster carers for orders under s.11 of the 1995 Act.

Consideration of applications from foster carers about permanency."

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

As noted in the section above prior to 1985 the 'Child Care Group' dealt with practice now associated with a fostering panel. It was constituted by senior social work managers and a medical advisor. In this period it was practice to accept that the professionals involved had sufficient training, knowledge and experience to take the necessary decisions.

The situation from 1985 onwards is reflected in the Comhairle's 'Fostering Procedures, Policies and Practice Guide' which first came into force in 2010 state:

Establishment of the fostering panel

- Responsibility for overview of the functioning of the panel and panel membership will lie with the Head of Children's Services.
- Panel members, apart from the medical and legal adviser should be appointed for a period of three years. The Head of Children's Services will ensure that, for consistency, not all panel members rotate off at the same time.
- In order to ensure that individual panels have a breadth of experience, the pool of panel members should normally be at least 6 members, not including medical and legal advisers. Every effort should be made to maintain a gender balance, diversity of backgrounds, a mix of professional members and service users and others within the community who have relevant experience and knowledge.
- It is important that panel membership reflects the cultural, social, religious, and ethnic background of the children and young people who will be using the foster care service and of foster carers and the community generally.
- Prior to becoming a panel member or chair, potential members/chair should be provided with a job description which includes the expectations and responsibilities. This should be accompanied by a person specification which reflects a broad range of expected experience, competence and knowledge. This should allow scope both for professional knowledge and expertise and also for different perspectives related to the separation of children from their birth families, including those with direct experience of fostering and those who use, or have used, foster care services
- The chair should be appointed by Head of Children's Services. A depute chair should also be appointed.
- The Agency Decision Maker will not be the chair, depute chair or panel member.
- Prospective panel members/chair should provide written information about the skills and experience they bring to the task together with a reference. The Head of Children's Services should ensure that all panel members/chair have been the subject of enhanced Disclosure Scotland and local authority checks. On the basis of the information provided by prospective panel members/chair, the Head of Children's Services should aim to achieve a balance of skills across panel members and continue to monitor this as individuals leave or join the panel.
- When appointed to the panel, all members including the chair should receive a letter of appointment and be required to sign an agreement outlining expectations of attendance at panels, appropriate preparation for and participation at panel meetings and, in particular, about confidentiality.
- New panel members should have the opportunity to observe at least one panel before becoming full members.

- On joining, members/chair should have access to information about the Integrated Children's Services Plan, agency fostering procedures and any additional practice guidance particular to the Comhairle, for example health considerations. This information should include:
 - the general criteria provided to all enquirers wishing to foster;
 - further information about the criteria on which applicants are assessed;
 - the nature and models of assessment used in assessing and preparing foster carers; and
 - the nature and models of assessment used in the assessment of children's needs and of their birth parents.
- Following initial induction, members may request further training. They will also be expected to participate in any panel training offered.
- The medical adviser will be appointed by Comhairle. When he/she are in attendance, he/she will not be part of the quorum for making statutory recommendations but will be a voting member of the panel. The medical adviser has a specific role, namely to interpret medical information and advise on its relevance for children's placements and on applicants' suitability to foster and on their possible remit.
- The medical adviser is not required to attend every panel meeting but the panel will have access to information from the medical adviser if not present.
- The legal adviser to the panel neither counts towards the quorum for the panel nor is a voting member.
- The legal adviser is not required to attend every panel meeting. S/he need only attend if a worker, a senior, or the chair requests that s/he do so or if s/he feels it appropriate to do so. The legal adviser will have been contacted, where appropriate, for advice.
- Individual panel meetings should normally include the depute/chair, minute taker and at least three other members. It is important that a gender balance is maintained.
- Panel members who have been directly involved in a case, or have, or have had, line management for a case, will not be considered part of the quorum although they may be able to contribute to discussion. Where the Comhairle is of the opinion that any member of the fostering panel is unsuitable or unable to remain a member they may terminate membership at any time by giving notice in writing with reasons.
- Similarly, any panel member with personal knowledge of individuals in a case should declare that in advance so that an alternative panel member can be identified. Anyone with a more peripheral knowledge of a case should indicate this at the time and this will be noted in minutes along with the conclusion of the chair about whether it affects objectivity.

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.

(ii) Foster carers

Past

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

From the reviewed files some date from the earliest days of the local authority in the mid 1970s potential foster carers were mainly identified through self-referral. In a small number of cases potential adopters, following assessment and whilst they awaited a permanent match were involved in providing foster care. In all cases an assessment process was undertaken and there is evidence to support that social workers worked to departmental procedures and also completed the assessment on British Adoption and Fostering (BAAF) forms available at the time. The guidance note in the older files covers the main areas to be explored with potential carers and references were taken up and followed up with referees. Medical and

Criminal record checks were also undertaken. The applications were then presented by the social worker to the Child Care Group. Please see 1.8(i) (e)

The Comhairle's 'Fostering Procedures, Policies and Practice Guide' which first came into force in 2010 state that there are a number of ways foster carers are identified. It is pointed out that '*there will always be people who enquire or seek information about fostering unprompted...*' However the main foundations involved in identifying foster carers are:

- General information always available in Comhairle buildings and with social work staff.
- Publicity campaigns
- Quick response to enquiries
- Monitoring of any enquiries
- Information events

Anyone is welcome to apply to be considered. Foster carers can be single or in a stable partnership. They can own or rent their homes. They do require the same available space for foster children no matter their circumstances – for example bedroom space. They must be over 21 years of age. Children under five will not be placed in the households of carers who smoke.

There are a number of stages in the approval process:

1. Enquiry and initial interview
2. Preparation. In depth work on the how children and young people come into the care system. The implications of this for the carers family. How the carers capacity will be assessed. The Comhairle's expectations in relation to discipline, standards of care, safe caring, openness, capacity to work with birth parents, capacity to work with professionals. Details of the checks that will be carried out. At this stage an applicant will require to know that the Comhairle will have to establish if there are any reasons they should not become foster carers.
3. Full Assessment. A full assessment report will be compiled including full background checks and chronology. Discussions with the applicant will cover:
 - their own life experiences;
 - their motivation to foster;
 - their experience of child rearing;
 - racial, cultural, language issues;
 - experience of difference and discrimination;
 - attitudes to health and mental health;
 - approaches and attitudes to discipline and punishment;
 - sexual attitudes;
 - caring for children and young people not born to you;
 - working with birth families;
 - the needs of children and young people who are accommodated;
 - impact on other members of the household and family, particularly children and young people;
 - understanding of attachment theory;
 - understanding of, and feelings about, child abuse; emotional, physical and sexual;
 - how they parent, were parented, want to parent;
 - what experience do they have of working in partnership and as part of a team;
 - what sort of family are they, for example open, closed, hospitable;
 - Education, their experiences of it and how they approach learning.

This is in line with Schedule 3 of the Looked After Children (Scotland) Regulations 2009. There will be visits to the applicants home studying space, cleanliness, condition. Anyone else living in the house will be met and the foster care task will be discussed. An interim report can be presented to a Fostering Panel if there are concerns that need to be addressed. A final report and recommendation will be presented to a full Fostering Panel.
4. The Fostering Panel will consider fully all matters and make a final recommendation to the Agency Decision Maker.

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

See response to 1.8 (ii) (a).

It is recognised that the fostering task has in many aspects changed over the years and reflects to some extent societal changes and expectations. In the earliest files reviewed the task was to provide a safe family environment for a child in need and the assessment focussed on the carers capacity to provide a loving and secure home. Carers who had raised children of their own would have been viewed as having the experience required and in most cases the qualifications.

Generally foster carers still do not require any qualifications and come from a wide cross section of society. The assessment process is designed to assess their experience and aptitude for caring for children and young people.

Since 2010 the Comhairle has had a 'Specialist Foster Carer Scheme'. The expectation is that these foster carers will have previous experience as foster carers or in residential care and have, or work towards, suitable qualifications such as SVQ in Child Care. There will be an added emphasis in the assessment in dealing with challenging behaviour.

In more recent times, covering the past and present foster carers have begun to take on more training and development opportunities.

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

See response to 1.8 (ii) (a).

The file review confirms that all checks required in the time period of approval were carried out.

Since 2010 there have been checks of criminal records, references taken up, home visits and interviews. The prospective carers attend the Fostering Panel when they are considered for registration.

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

See response to 1.8 (ii) (a). Anyone residing in the house and over 16 years old would be subject to criminal record checks. The review of the files would indicate that other adult household members were interviewed.

- 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?

See response to 1.8 (ii) (a)

There are no checks made of other family members or friends unless they were part of the household which constitutes the foster home.

- 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?

See response to 1.8 (ii) (a).

From 2002, when Disclosure Scotland came into existence foster carer and anyone over 16 years in the household were checked through this process. These checks were renewed every three years. This was

predominantly carried out at the time foster carers were coming back to a Fostering & Adoption Panel for re-registration. All other appropriate checks would be carried out that time.

The 2010 Comhairle guidance makes clear the foster carer will be represented to panel after a year and three yearly thereafter. Checks would be repeated at these junctures.

- 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?

See response to 1.8 (ii) (a).

From the files reviewed there is evidence to support that the assessment process addressed the accommodation and what could be offered and what was needed to adapt it for a specific child. In the latter part of the Past annual reviews of carers addressed the accommodation and any issues. For example the review considered health and safety of property.

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

In terms of the Children (Boarding-Out) (Scotland) Rules and Regulations 1947 "foster parent" was defined to mean "a husband and wife, or a woman, with whom a child is boarded-out by a local authority." Since the coming into force of the Looked After Children (Scotland) Regulations 2009 there has been no limitation on the type of family structure that potential foster carers may belong to and foster carers are assessed as suitable according to their own merits....the local authority is responsible for approval of foster carers..." Norrie 2017.

From the files reviewed there is no evidence to suggest that the gender of the carer was relevant to approval. However, as with other aspects it was a consideration in making specific placements.

- 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?

It is not possible to definitively answer this question for the majority of the period defined as the past. In general terms over the period which spans the recent past and the present there would be no such generalisation.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

It is clear the legal frameworks pertaining to foster care in the early part of the last century were based on the foster carer treating the child in placement as one of their own. As such it is safe to assume that 'care' did go beyond 'accommodation'. During this time foster carers would have involved them in all aspects of the child's life congruent with the social norms of the time.

Since 2010 there have been placement agreements in place which would set out any tasks expected of foster carers. Liaison with schools or facilitating family contact are two such services beyond 'accommodation'.

- 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?

It is not possible to definitively answer this question for the majority of the period defined as the past. Nevertheless given that the Western Isles is a crofting-based community it would be highly likely that foster children would have been involved in croft work – as would all other children.

Public Assistance Circular 1934 was written by the Secretary for the County Clerk/Town Clerk following the Poor Law Scotland Regulations 1934. It states “It will be noted that Article 25, which deals with the making of rules to be observed by guardians, requires that those rules shall ensure that a guardian does not make use of the services of any boarded-out child for the purpose of any trade, business or calling carried on by him, except in the performance of such light agricultural or horticultural work as may be done by the child without risk of injury to the child's health or of detriment to his educational progress and general welfare.

From the files reviewed there is no evidence that children worked in the placements. Any work undertaken would have been in the communal sense for example a family working together in the croft. As noted above this would have been usual for all children as part of rural family life.

In recent times working with animals and other general croft work has proved to be a useful therapeutic tool deployed by some of our rural based carers.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

There is evidence from the files reviewed that agreements were entered into from the mid-1970s onwards. There is evidence in files that an “Explanatory Memorandum” was issued to foster carers. This highlights areas such as an explanation of the aims of fostering, the duties of the carers, the relationship between the carers, the parents and the Local Authority emphasising that fostering is a shared responsibility. This document evidences that corporate parenting was in operation before it became a more formal initiative.

Since 2010 it has been Comhairle policy to have a foster placement agreement.

Present

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

No.

- n) If so, please give details.

Not applicable.

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?

It is not possible to definitively answer this question from the limited information available.

That said, the provision of foster care was a statutory obligation and viewed as an essential aspect in meeting the needs of children who could not remain at home. Care had to be taken in protecting confidentiality and sensitivity exercised when placements were made given the size of the community and local knowledge.

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

It is not possible to definitively answer this question from the limited information available.

- c) How can that be demonstrated?

Not applicable.

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

It is not possible to definitively answer this question from the limited information available.

The review of the available files would indicate the local authority meeting the statutory needs of the time in question and following practice guidance. The demands and expectations have changed over the years. Carers would have been approved on the basis of them having endorsed the policies of the local authority and their willingness to adhere to guidance and from some of the files reviewed there is evidence to support that the attitude of the carer to procedures and their adherence was considered as part of a carer's annual review.

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

Not applicable.

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

From the available information it would appear that changes in the service were informed by changes and developments in national practice and the increased regulation and inspection that followed from legislative changes. Changes would also have been driven by shared experiences with other local authorities.

The provision of a specialist social worker in 1993 and the formation of a Fostering & Adoption team in 2009 were watershed moments for an increased focus on the provision of support for foster carers.

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

From the available information it would appear that changes in the service were informed by changes and developments in national practice and the increased regulation and inspection that followed from legislative changes. Changes would also have been driven by shared experiences with other local authorities.

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

There is no available evidence to suggest this is the case.

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

Not applicable.

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

From the available information it would appear that changes in the service were informed by changes and developments in national practice and the increased regulation and inspection that followed from legislative changes. Changes would also have been driven by shared experiences with other local authorities.

The provision of a specialist social worker in 1993 and the formation of a Fostering & Adoption team in 2009 were watershed moments for an increased focus on the provision of support for foster carers.

Present

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

No.

- l) If so, please give details.

Not applicable.

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

There is no evidence to suggest changes were driven by abuse or alleged abuse.

2.2 Structure, leadership and accountability

Past

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

It is not possible to definitively answer this question for the majority of the period defined as the past and in particular for the pre-1975 predecessor authorities to the Comhairle.

From the inception of the Comhairle there was a Director of Social Work who was ultimately responsible, along with an Assistant Director, for oversight of all social work activity. Case Management would be through service managers and team leaders. (Post titles changed over the years.)

In 2009 at a point of organisational restructure children and families social work became part of the Department of Education & Children Services. Line management responsibility then rested with the Head of Children's Services. The agency decision maker from the point of view of fostering and adoption panels was the CSWO (Chief Social Work Officer). This could be an officer in the Education & Children's Services Department but could also be an officer within adult services.

Currently CSWO duties are vested in the Head of Children's Services.

Since 2009 the Comhairle has had a separate fostering and adoption team. It was originally termed a family placement team. This team has a manager / team leader who was responsible to the service manager and ultimately the Head of Children's Services.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

See 2.2 (a)

In more recent times there has been a general expectation, outlined in the Comhairle's Supervision Policy, that professional social work staff are supervised on average once a month.

From 2010 the Comhairle's Fostering Procedures, Policies and Practice Guide has stated:

- Staff appointed to the family placement service will be given training opportunities to keep them up-to-date with theory, practice and legislation.
- Staff will have annual appraisals which will include an assessment of their training and development needs.
- There will be recognition that the training needs of staff delivering the fostering service are diverse. There will be some training that can be done jointly with carers; other opportunities which will involve working with colleagues in other disciplines and with colleagues who are placing children in foster care.

In the same guidance there is also reference to regular reporting to senior management of various data such as number of recruitment events as well as basic information on number of children in placement.

c) What were the lines of accountability?

See response to 2.2 (a)

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?

It is not possible to definitively answer this question for the majority of the period defined as the past.

See 2.2 (a)

Prior to the establishment of and Education and Children's Services Department in 2009, the responsibility for children in foster care sat within the Social Work Department in which the Director of Social Work had overall corporate and professional responsibility for the service. Senior operational management responsibility rested with the Assistant Director of Social Work who delegated day-to-day operational responsibilities to team managers and frontline team leaders.

In the most recent era which spans both past and present the Head of Children's Services has been the person with ultimate responsibility for this area of work.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

During the period of time covered by the Comhairle, matters of policy and procedure would have been presented by senior manager to the appropriate council committee.

Prior to 2009 this would have been a task carried out by the Director / Assistant Director of Social Work. Committee reports are now presented by the Director of Education & Children's Services or the Head of Children's Services.

- f) To whom were foster carers accountable?

It is not possible to definitively answer this question for the majority of the period defined as the past.

Review of the files would indicate it was clear that foster carers were accountable to the local authority. The agreement referred to in 1.8 (i) makes this clear.

In the most recent era which spans both past and present foster carers would have a support worker and through them would be responsible. Through them foster carers would be accountable via the team leader and fostering panel to the Agency Decision Maker. This line of accountability is clear from the 2010 Fostering Procedures, Policies and Practice Guide.

- 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?

It is not possible to definitively answer this question for the majority of the period defined as the past.

See 2.2 (f)

In the most recent era which spans both past and present the ultimate responsibility would lie with the agency decision-maker. At the moment this is the Head of Children's Services, however it could lie with a social work-qualified senior member of staff in adult services.

- h) To whom were fostering panels accountable?

Since the inception of fostering panels they have been responsible to the agency decision-maker.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

In the 2010 Fostering Procedures, Policies and Practice Guide it is clear that the oversight is the ultimate responsibility of the agency decision-maker. Day to day management of the panel processes lies with the Fostering & Adoption Team Leader.

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.

2.3 External Oversight

Past

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

The external oversight arrangements applying to the fostering service in the Western Isles would be identical to that for all local authorities over the period in question, being carried out by the Social Work Services Group, the Social Work Inspection Agency, the Care Inspectorate, the Scottish Public Services Ombudsman and Audit Scotland.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

See response to 2.3 (a)

- c) How often did this occur?

It is not possible to definitively answer this question for the majority of the period defined as the past.

In the most recent era which spans the period defined as both past and present the Care Inspectorate are responsible for this external scrutiny. Reports are publicly available through the Care Inspectorate website. In recent years there has been inspection in one shape or form almost annually. This activity has ranged from full formal inspections, follow up and progress visits. Between 2009 and 2016 such visits were annual and then one in 2019.

- d) What did these visits involve in practice?

It is not possible to definitively answer this question for the majority of the period defined as the past.

During the period where this has been the responsibility of the Care Inspectorate these visits have involved meeting practitioners, carers, managers and scrutinising the available records. They will have the opportunity to meet with foster carers, children in foster care and organisations like Who Cares? Scotland. This will be in common with the practice experienced in all other local authorities.

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.

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?

From the review of the available information there is no evidence that any foster carer contracted by the Comhairle or its predecessor authorities has ever been convicted of abusing a child in their care. It is acknowledged that the information from predecessor authorities is scant.

From our review of the available files, there were three instances where the local authority concluded on the balance of probabilities that a foster carer had:

- Struck a child (the child was removed from their care and the foster carer was de-registered).
- Acted inappropriately, in a sexualised manner, towards a child who was no longer in their care; the foster carer was de-registered.
- Struck a child; incident viewed, following investigation, as a lack of appropriate control in dealing with consistent verbal abuse and guidance issued. The placement continued satisfactorily. No further placements made.

It is acknowledged however that it is not possible to definitively answer this question for the majority of the period defined as the past as records from predecessor authorities are scant.

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

See response to 3.1 (a).

- c) What is the basis of that assessment?

A review of all available files relating to foster carers and the files of the children in their care.

3.2 Acknowledgement of Systemic Failures

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

There is no evidence, either written or in living memory, that the systems in place over time failed children in the care of the Comhairle or its predecessor authorities. It is of course accepted that practice has developed and the systems in place now are significantly more robust than was historically the case.

It is acknowledged however that it is not possible to definitively answer this question for the majority of the period defined as the past as records from predecessor authorities are scant.

As far as can be ascertained from our review of the files there were only two instances where, on reflection and with the benefit of hindsight, a referral could have been made to the police but was not. It is impossible to be categorical in answering this question as there is little documentation for much of the period defined as the past. There is no evidence of systemic failure.

It must be emphasised that the number of placements in the Western Isles was and remains small. With such low numbers there is a difficulty in ascertaining patterns. To the best of our knowledge, no foster carer has ever been convicted of abuse. In two instances the local authority felt that on the balance of probabilities the foster carer had acted inappropriately and in those cases the foster carers were de-registered. In these instances the system certainly did work. Admittedly numbers are small and as such the systems may not have been tested to any great extent. As stated above it is accepted that systems are now in place which are significantly more robust than was historically the case.

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

Not applicable.

- c) What is the basis of that assessment?

A review of all available files relating to foster carers and the files of the children in their care.

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

See 3.2 (a).

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?

It would appear from the review of the available files that past practice reflected standards, expectations and legal requirements of the time in which services were operating and that, as these have evolved, local authority practice has developed to ensure compliance with national and international requirements.

It requires to be reiterated that the number of children in foster care in the Western Isles was and is low. We have found examples of accusations of abuse being made against six foster carers and one example of an accusation against another child in the household. From the review of the available files these

complaints appear mostly to have been responded to appropriately, having been fully investigated through the child protection processes relevant at the time, although it is recognised that a referral to the police did not take place in two cases where it appears, from the review of the files, that it could have. All complaints, with the exception of those two, were investigated appropriately in line with the expected processes of the time period in question. It is accepted that systems are now in place which are significantly more robust than was historically the case.

However it is not possible to definitively answer this question for the majority of the period defined as the past as records from predecessor authorities are scant.

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

See 3.3(a)

- c) What is the basis of that assessment?

Review of all available files relating to foster carers and the files of the children in their care.

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

The review of the files which was carried out did not uncover any significant deficiencies in responses and most of the complaints identified appear to have been dealt with appropriately given the time frame in which they were made. In two instances where there could have been a referral to the police, the review of the files does not disclose such a referral. Services and responses have evolved over time and there is little doubt that today's processes are more robust than was formerly the case.

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 implemented changes to its policies, procedures and practices, but not as a result of any acknowledgment in relation to 3.1-3.3 above. Rather, the service has developed in line with changes in legislation, guidance and professional standards. These are set out in preceding sections of this document. Examples of that would be:

- The employment of a specialist fostering and adoption worker in 1993
- Moving to an independent chair of the fostering & adoption panel in 2006
- The establishment of a fostering & adoption team in 2009
- The initiating of a suite of fostering & adoption specific policy and guidance in 2010
- The Comhairle now pay a higher rate of fostering fees and allowances than most other local authorities in Scotland.

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.

See response to 1.1 (b)

Norrie, 2017 in his submission to the Inquiry 'Legislative Background to the Treatment of Children and Young People Living Apart from their Parents sets out the national policy and guidance framework at some length.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

Since 2010 the Comhairle has had a Fostering Procedures, Policies and Practice Guide which notes legislation and guidance.

There is a Foster Carers Handbook dating from 2017.

- 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?

It is not possible to definitively answer this question for the majority of the period defined as the past.

Since 2010 the Comhairle has had a Fostering Procedures, Policies and Practice Guide which covers a number of the areas set out below, for example complaints and record retention.

There is a Foster Carers Handbook dating from 2017.

The Comhairle follow the national guidance issued by Adoption and Fostering Alliance which is compliant with legal requirements. This is in common with most other local authorities.

The Comhairle practice in the area of fostering is also covered by other national guidance from out with the specific sphere of fostering. There is a suite of GIRFEC (Getting It Right For Every Child) policies which address amongst many other things a multidisciplinary approach to child protection.

There are general Comhairle policies which address complaints and whistleblowing.

The Comhairle is compliant with the Health and Social Care Standards: My support, My Life 2017 which originally came from Regulation of Care (Scotland) 2001.

The Comhairle's complaints policy and guidance through SPSO (Scottish Public Services Ombudsman) has been reviewed regularly. There are records of reviews in 2012 and in 2015.

The Public Interest Disclosure Act 1998 informed the whistleblowing policy. The last two updates of this policy were 2012 and 2014/15.

- i. Child welfare (physical and emotional)

- ii. The child's views
 - iii. Reviewing a child's continued residence in a foster care placement
 - iv. Child protection
 - v. Discipline
 - vi. Complaints handling
 - vii. Whistleblowing
 - viii. Record retention
 - ix. Recruitment and training of foster carers
 - x. Requiring employers to divulge details of complaints etc. 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?

Yes

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

The 2010 Fostering Procedures, Policies and Practice Guide is a concrete manifestation of the effect being given to the developments. This is a practice guide with a direct influence on the experience of foster carers and children in their care.

Ensuring provision of appropriate staff training and professional development opportunities, staff support and supervision (we have a specific staff supervision framework which includes a one to one supervision contract with each staff member), case records, case audit, Inspection reports.

- 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?

The Comhairle follow the national guidance issued by Adoption and Fostering Alliance which is compliant with legal requirements. This is in common with most other local authorities.

The Comhairle practice in the area of fostering is also covered by other national guidance from out with the specific sphere of fostering.

Whenever improvements in practice in the area of fostering are suggested the Comhairle will respond positively and consider how these can be incorporated in to practice.

- h) If so, please give details.

The GIRFEC approach, which has become imbedded through the 2017-2020 Integrated Children Services Plan, provides us all with a common approach to working in together to deliver better outcomes for children to ensure they reach their full potential. It promotes a shared approach and accountability that:

- builds solutions with and around children, young people and families
- enables children and young people to get the help they need when they need it
- supports a positive shift in culture, systems and practice

- involves working better together to improve life chances for children, young people and families

One of the main work streams in the 2017 – 2020 Integrated Children's Services Plan was Looked After Children. This clearly covers those in foster care. This remains the case with the still to be published 2020 – 2023 Integrated Children's Services Plan. The language has changed in response to the Independent Care Review to Children & Young People who are Care Experienced.

Provision of training for foster carers has developed. In 2019 our foster carers were able as a group to attend Dyadic Development Psychotherapy training.

4.2 Local Authority

(i) Policy

Past

It is not possible to definitively answer this question for the majority of the period defined as the past due to absence of records.

See response to 4.1 (c)

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

Much of the work carried out is done within the legal framework given by the Children's Scotland Act 1995 and the GIRFEC policy context.

Since 2010 the Comhairle has had a Fostering Procedures, Policies and Practice Guide

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

The Comhairle's 2010 guidance notes:

Philosophy and values

All Councils, when taking on the role of parent whatever the legislative basis for placements, must provide a safe environment, one which helps children and young people have their educational, emotional and developmental needs met and which takes account of their traumatic/damaging life experiences and missed opportunities. There must be opportunities for children and young people to maintain appropriate contact with their birth families, provided it is in their interests, in terms of s.17(1) (c) of the 1995 Act. In placing a child or young person, the Council must take account of religious, cultural and ethnic factors in children and young people's backgrounds, in terms of s.17(4) (c) of the 1995 Act. And the views of children and young people, and of their families, must be taken account of in terms of s.17 (3) and (4) of the 1995 Act.

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

The Particular Needs of Children being looked after and accommodated

Children and young people placed in foster care have a lot of specific and individual needs. All will experience loss, trauma, disruption and dislocation of, and from, everything that is familiar.

This will be so, even if there are aspects of their home circumstances which have been very detrimental and traumatic.

Some will have had experience of physical, emotional and sexual abuse and neglect. They will have experienced a combination of trauma and inconsistency in the provision of positive experiences. These experiences will often be seen in their behaviours.

It is important that foster carers understand the very special tasks that are involved in caring for a child with these experiences.

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

Yes

See response to 4.1 (c), 4.2 (i) (a) & (b)

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

The review of the files did evidence the use of an Explanatory Memorandum setting out the duties of foster carers and procedures to be followed by them. This dates from the approximately 1975.

Through the 1980s there is evidence from the review of the files that RIC (Reception Into Care) documentation was consistently used. This included for example the need for the child to have a medical within set time frames. There was also the requirement to have a LAC review within set time frames.

Since 2010 the Comhairle has had a Fostering Procedures, Policies and Practice Guide. This is included in Appendix 1 for ease of reference.

i. Child welfare (physical and emotional)

General statement in the introduction to the 2010 Comhairle Guidance.

All Councils, when taking on the role of corporate parent whatever the legislative basis for placements, must provide a safe environment, one which helps children and young people have their educational, emotional and developmental needs met and which takes account of their traumatic/damaging life experiences and missed opportunities. There must be opportunities for children and young people to maintain appropriate contact with their birth families, provided it is in their interests, in terms of s.17(1)(c) of the 1995 Act. In placing a child or young person, the Council must take account of religious, cultural and ethnic factors in children and young people's backgrounds, in terms of s.17 (4) (c) of the 1995 Act, and the views of children and young people, and of their families, must be taken account of in terms of s.17 (3) and (4) of the 1995 Act.

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

The Particular Needs of Children being looked after and accommodated

Children and young people placed in foster care have a lot of specific and individual needs. All will experience loss, trauma, disruption and dislocation of, and from, everything that is familiar. This will be so, even if there are aspects of their home circumstances which have been very detrimental and traumatic. Some will have had experience of physical, emotional and sexual abuse and neglect. They will have experienced a combination of trauma and inconsistency in the provision of positive experiences. These experiences will often be seen in their behaviours.

It is important that foster carers understand the very special tasks that are involved in caring for a child with these experiences.

ii. The child's views

2010 guidance C4.

All requests for a planned fostering resource should be made in the first instance to the Fostering Manager. Where it has not been possible to plan a placement, the Fostering Manager or link support worker for the placement should be invited to the first review. There is a need to gather good information about any child being referred for foster care. Individual children's Social Workers will be responsible for ensuring that all the necessary information about the child or young person is gathered, noted and incorporated into her/his Foster Placement Agreement (FPA). (See section I for detailed information) This will include:

- Circumstances of the need for accommodation;
- Siblings;
- School;
- Ethnicity;
- Diet;
- Special physical needs;
- Religious and cultural needs;
- Medical needs;
- Views of the child;
- Views of the parents and any other family carers;
- Reasons why they should not be placed with other children;
- Any particular behavioural issues;
- Any pets;
- Any circumstances about the child's family that may affect a match?

Where it is possible to plan a placement, there should be introductions at the start of the process and the Foster Placement Agreement, will be drawn up before the child or young person moves. The Essential Core Record and Placement Agreement and Day to Day Placement Arrangement documentation which form the FPA will be completed.

Where a child or young person has to be placed on an emergency basis, the Comhairle will expect foster carers to fulfil their duties and responsibilities to the child or young person and to the Comhairle as outlined in their Foster Carer Agreement.

The child's social worker and the link worker will work together to gather the information necessary for the Essential Core Record and Placement Agreement and Day to Day Placement Arrangements, within 72 hours. There should also be a review within this period.

However, any immediate necessary information about the child or young person, such as diet and health needs, must be given to the carers at the time of placement, even if only verbally.

The Team Leader Children and Families will be responsible for ensuring all placements have a Foster Placement Agreement.

More detail and information about Foster Placement Agreements etc. is given in

There is further evidence from the review of the files of 'Having Your Say Documentation'.

iii. Placement of siblings

2010 guidance C3

In relation to key policy and practice issues it is noted:

Achieving placements of sibling's together, assessing suitability of placing together and recognising that once separated, it can become difficult to re-unite.

iv. The placement of a child in foster care

See 4.2 (i) (d) (ii) above

2010 guidance C4

From the review of the files there is evidence of RIC (Reception Into Care) paperwork.

- v. The particular placement of a child with foster carers

See 4.2 (i) (d) (ii) above

2010 guidance C4

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

2010 guidance 14.2 – mentions contact specifically with family, siblings within the context of the Foster Placement Agreement.

Foster Placement Agreement (FPA)

At the time of each placement of a child or young person, a Foster Placement Agreement (FPA) will be made between the Comhairle and the carer, using the Day-to-Day Placement Arrangements and Essential Core Record and Placement Agreement documentation.

The FPA will be as complete as possible so that effective plans may be made for each child or young person.

When the placement is planned, the FPA will be signed and provided in advance of, or at the time of the placement.

When the placement is an emergency one, the FPA will be signed and provided within 72 hours of the placement.

The Team Leader Children and Families is responsible for ensuring FPAs are in place.

Where the FPA is signed and does not contain all the information about the child or young person as required in Schedule 4, this will be provided to the carer within 14 days of signing.

The FPA will include any specific tasks about support and respite arrangements for the child or young person.

This FPA will be considered at each Child Care Review and amended as appropriate.

The matters in Schedule 4 of The Looked After Children (Scotland) Regulations 2009, to be covered in the FPA, are:

all information which the Comhairle thinks is necessary for the carer to have to care for the child or young person, particularly:

the care plan for the child or young person and the placement objectives;

details of the child or young person's legal status, including any supervision requirement, court orders, etc;

the personal history, religious persuasion, cultural and linguistic background and racial origin of the child or young person;

the health and medical needs of the child or young person and her/his GP; and

the educational needs of the child or young person.

financial support arrangements for the child or young person;

details about who consents to medical treatment etc. and to activities etc. for the child or young person;

when it will be necessary to obtain advance Comhairle approval for the child or young person to live away from the carer's home or for someone else temporarily to care for her/him;

arrangements for Comhairle visits to the child or young person and the frequency of visits and reviews;

**contact arrangements for the child or young person;
compliance by the carer with the terms of her/his FCA;
co-operation by foster carer with arrangements made by the Comhairle.**

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

See 4.2 (i) (d) (ii) above

4.2 of the 2010 guidance mentions contact specifically with family, siblings.

- viii. Information sharing with the child's family

There is no evidence of this from the information reviewed.

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

Sections H, L and N of the 2010 guidance give a relatively extensive overview of this area. (Appendix 1)

- x. Recruitment and training of foster carers

Sections F, G and K of the 2010 guidance.

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

There is no evidence of this from the information reviewed.

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

It is clear from the review of fostering files that children's placements were reviewed on a regular basis and fell in with general expectations for Looked After Children. Those on supervision orders were further reviewed on at least an annual basis through a Children's Hearing.

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

Sections K and M of the 2010 guidance.

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

There is no documentary evidence of guidance on this area of practice from the review of files and it is not specifically mentioned in the 2010 guidance.

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

There is no documentary evidence of guidance on this area of practice from the review of files and it is not specifically mentioned in the 2010 guidance.

xvi. Child protection

Section E of the 2010 guidance plus general Children's Panel procedures

xvii. Complaints handling

Sections O and P of the 2010 guidance.

xviii. Whistleblowing

Whistleblowing is a relatively modern term and not one in common parlance until the relatively recent past.

The Comhairle works on the basis of the Public Interest Disclosure Act 1998. The whistleblowing policy has been reviewed since then a number of times, most recently in 2012 and again in 2014/15.

xix. Record retention

Section L of the 2010 guidance states the key policy and practice issues are:

To ensure that the system for making and maintaining children and young people's records are clear and simple.

To ensure that the system for making and maintaining carers' records are clear and simple and key information is easily accessible

To ensure confidentiality is maintained.

To ensure that appropriate information of visits is kept by workers in children and young people's records and in carers' records.

To ensure that information is kept in children and young people's records and in AGR46105

carers' records about all reviews, incidents, allegations, investigations, representations and complaints.

To ensure that appropriate information is contained in carers' records and that these are kept for at least 25 years from the date of termination of approval or de-registration, or until carers' death, whichever is earlier.

To ensure clear Comhairle policy on how long carers' records will be kept after the 10 year minimum from termination of approval or de-registration.

To ensure clear Comhairle policy on who will decide when records that have been kept for longer than required may be destroyed.

e) Who compiled the policies and/or procedures?

The manager responsible for the service at the specific juncture would have compiled policy for approval by the Comhairle. More recently GIRFEC policy was formulated through multidisciplinary processes.

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

The first comprehensive guidance that we are aware of was put in place in 2010.

g) Were such policies and/or practices reviewed?

These policies should be reviewed regularly, however that has not happened to the degree anticipated. They are now going through a process of significant review.

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

To keep up with changes in legislation, guidance and good practice.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

Changes have occurred in the Western Isles which are of a similar nature to national developments. For example the move from fostering being seen as a long term towards a short term care solution or moving from unpaid to financially supported through fees and allowances.

j) Why were changes made?

See the response to 4.2 (h)

k) Were changes documented?

Historically changes do not appear to have been well documented. It requires to be acknowledged that the concepts such as audit trail and self-evaluation are relatively recent constructs. Over periods of time defined by the Inquiry as the past practice was not so heavily supported with policy and procedural documentation.

l) Was there an audit trail?

See the response to 4.2 (k)

Present

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

The guidance remains substantially the same

n) If so, please give details.

The guidance is currently being fully reviewed. There will for example be an increased emphasis on prioritising sibling relationships and seeking the views of young people as per the Family Justice Modernisation Strategy – Part 10 (Amendment to Looked After Children Regulations 2009)
The PACE agenda will be more overtly recognised

Once there has been time to reflect on the outcomes and recommendations of the Care Review these will also be addressed within Comhairle policies and procedures.

The concept of continuing care will be overtly addressed.

(ii) Practice

Past

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

The information available over the bulk of the period defined as the past does not allow a definitive answer to be given to this question. It is clear from the review of the files that during the period when social workers carried a generic case load they could be the child's allocated social worker and carry the support responsibility for the foster carers. Perhaps as a consequence of this dynamic the child's file is where information is predominantly recorded. Older foster care files tended to only contain information relating to the assessment process and their approval.

In recent times, which covers a period which spans the more recent elements of the past as well as the present the local authority has to the best of our knowledge adhered to the policies and procedures.

- b) Did the local authority adhere in practice to its policy/procedures on the following:
- i. Child welfare (physical and emotional)
 - ii. The child's views
 - iii. Placement of siblings
 - iv. The placement of a child in foster care
 - v. The particular placement of a child with foster carers
 - vi. Contact between a child in foster care with his or her family
 - vii. Contact between a child in foster care and other siblings in foster care
 - viii. Information sharing with the child's family
 - ix. Fostering panels (including constitution, remit, frequency and record keeping)
 - x. 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
 - xii. Reviewing a child's continued residence in foster care or in a particular foster care placement
 - xiii. Visits to a foster care placement (including frequency, purpose, content, follow up and record keeping)
 - xiv. Transfer of a child from one foster placement to another (including preparation and support)
 - xv. Transfer of a child between foster care and residential care (including preparation and support)
 - xvi. Child protection
 - xvii. Complaints handling
 - xviii. Whistleblowing
 - xix. Record retention

Our review of the available records would suggest the answer to this question is; yes the Comhairle generally adhered to its policies and procedures. Of course this is based on the available information and for the bulk of the period defined as the past there was little information available.

- c) How was adherence demonstrated?

Review of the all available files relating to foster carers and foster children.

- d) How can such adherence be demonstrated to the Inquiry?

In the most recent years there has been self-evaluation activity. Clearly external inspection activity in all the guises the Care Inspectorate have taken over the years of its existence. This culminated last year (2019) in the fostering service being graded as very good and the adoption service as excellent.

e) Were relevant records kept demonstrating adherence?

There were few if any records covering the majority of the period defined as the past. Records are more comprehensive in recent times covering the later part of the past and into the present.

f) Have such records been retained?

There were few if any records covering the majority of the period defined as the past. Records are more comprehensive in recent times covering the later part of the past and into the present.

g) If policy/procedure was not adhered to in practice, why not?

There were few if any records covering the majority of the period defined as the past. Records are more comprehensive in recent times covering the later part of the past and into the present. As such there is little evidence in recent times of policy not being adhered to. As noted in 5.9 there are two individual instances of the police not being involved in incidents which with the value of hindsight they should have been. It is not, however, possible to make a definitive statement on practice over earlier periods of time.

h) If policy/procedure was not adhered to in practice, what was the practice?

See response to 4.2 (ii) (g)

Present

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

Yes

j) If so, please give details.

The review of the available files demonstrated general adherence to policy and procedure. In section 5.9 there is noted two deviances from child protection policy.

Care Inspectorate reports attest to an adherence to policy and good practice. This culminated in the 2019 inspection which graded fostering practice in the Western Isles as very good.

The Western Isles have kept up to date with legislative changes for example:

In 2017 the Health and Social Care Standards replaced the National Care Standards
Western Isles Inter-agency Child Protection Procedures 2014

4.3 Children

(i) Policy

Past

It is not possible to definitively answer this question for the majority of the period defined as the past.

- a) What policies and/or procedures did the local authority have in place in relation to the care of children in foster care?

See 4.2 (ii) (a)

In the more recent era spanning the past and present children in the care of the local authority have been regularly reviewed to ensure the care was appropriate. For example LAC procedures and guidance will have been followed.

Since 2006 the Scottish Government have been promoting the GIRFEC agenda and the Comhairle like all local authorities have been working to this. The 2017 – 2020 Integrated Children's Services Plan had as one of its main aims the embedding of this agenda in practice.

Certainly the 2010 Fostering Procedures, Policies and Practice Guide covers elements of the procedures the Inquiry is concerned about.

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

The 2010 Fostering Procedures, Policies and Practice Guide give a good indication of the Comhairle's general philosophy:

Philosophy and values

All Councils, when taking on the role of parent whatever the legislative basis for placements, must provide a safe environment, one which helps children and young people have their educational, emotional and developmental needs met and which takes account of their traumatic/damaging life experiences and missed opportunities. There must be opportunities for children and young people to maintain appropriate contact with their birth families, provided it is in their interests, in terms of s.17(1)(c) of the 1995 Act. In placing a child or young person, the Council must take account of religious, cultural and ethnic factors in children and young people's backgrounds, in terms of s.17(4)(c) of the 1995 Act. And the views of children and young people, and of their families, must be taken account of in terms of s.17 (3) and (4) of the 1995 Act.

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

The Particular Needs of Children being looked after and accommodated

Children and young people placed in foster care have a lot of specific and individual needs. All will experience loss, trauma, disruption and dislocation of, and from, everything that is familiar.

This will be so, even if there are aspects of their home circumstances which have not been particularly detrimental and traumatic.

Some will have had experience of physical, emotional and sexual abuse and neglect. They will have experienced a combination of trauma and inconsistency in the provision of positive experiences. These experiences will often be seen in their behaviours.

It is important that foster carers understand the very special tasks that are involved in caring for a child with these experiences.

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

Comhairle Committee reports.

2010 Fostering Procedures, Policies and Practice Guide.

In more recent times policy and procedure have been accessible on the Comhairle website.

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

For a considerable period of time in the more recent/less distant past, the terms of the Social Work Scotland (1968) Act were relied upon and adhered to in respect of the Local Authority's role in the care and protection of children in general and, more specifically, in relation to children who required to be accommodated. Subsequently, the Children (Scotland) Act 1995 became the cornerstone which informed the duties and responsibility of the Local Authority in relation to children in need of care, support and protection.

Developments in the recent past are encapsulated in the Comhairle's 2010 Fostering Procedures, Policies and Practice Guide which has been referred to previously. There is also a Foster Carers Handbook updated in 2017. There is further the legally required Foster Carer Agreement and is signed by foster carers and social worker. This agreement sets out the conditions of the partnership between foster carers and the Comhairle.

i. Safeguarding

Safeguarding and child protection practice, as mentioned above relied on the Social Work (Scotland) 1968 and later the Children (Scotland) Act 1995. National guidance such as what is commonly referred to as 'LAC procedures' were in place and common to all local authorities. In more recent times there has been the evolution of the GIRFEC Agenda and the emergence of practice such as the single point of contact or Named Person. The Child Protection Committee has oversight. GIRFEC policies, procedures and guidance set out the concept of corporate parenting and the necessity for multi-agency working.

ii. Child Protection

See 4.3 (i) (d) (i) above

iii. Medical care

The 2010 Fostering Procedures, Policies and Practice Guide states that any such issues, present at the time of initial placement, should be addressed through the Fostering Placement Agreement. It is clear from the review of the files that such issues were in the recent past, and are now, dealt with through regular child care reviews. The LAC procedures and the more recent GIRFEC processes have this in common.

By the very end of the period defined as the past by the Inquiry there was an emerging use of the Team Around the Child Model. This allowed for a more dynamic assessment of need and the subsequent planning.

iv. Children's physical wellbeing

See 4.3 (i) (d) (iii) above

v. Children's emotional and mental wellbeing

See 4.3 (i) (d) (iii) above

vi. Schooling/education

See 4.3 (i) (d) (iii) above

vii. Discipline

The 2010 Fostering Procedures, Policies and Practice Guide sections G4.2, G4.3 mention expectations around discipline. I3 makes it clear corporal punishment is not acceptable.

viii. Activities and holidays for children

The 2010 Fostering Procedures, Policies and Practice Guide section J4.4 makes reference to holiday, Christmas allowances etc.

ix. Sharing a bedroom

The Foster Care Handbook states that the children should have their own bedrooms. They should only share bedrooms with their own siblings and if they are over the age of ten, siblings should be of the same gender. Babies under the age of one may sleep in the carer's bedroom. There is leeway to discuss any exceptional arrangements (e.g. holiday accommodation) with the children's social worker or fostering and adoption social worker.

x. Contact with family members

The 2010 Fostering Procedures, Policies and Practice Guide section I4.2 refers to contact arrangements but not specifically about family. Section G4.2 talks of work with birth parents.

In the Foster Carers Handbook there is a clear expectation that there should be a promotion of regular and direct contact between a young person and anyone who has parental responsibilities, providing this is consistent with safeguarding the young person's welfare

In the Foster Care Agreement it is clear that the carers should endeavour to respect the importance of contact between the child, his/her family, previous carers, or others deemed to be important to the child. Contact between the child and relatives shall be mutually agreed between all parties, taking into account the legal requirements and the needs of the child and the carer's family. All contact arrangements to be specified in the placement and to be reviewed regularly. The Agency has a duty to inform the child's parent(s) in writing of any changes in the contact arrangements.

xi. Contact with siblings

The 2010 Fostering Procedures, Policies and Practice Guide section I4.2 refers to contact arrangements but not specifically about family.

The issue of sibling contact is covered in the Foster Care Agreement. The Foster Care Agreement should cover contact with the child's family and this would include siblings.

In the Foster Carers Handbook it notes that if achievable and if it is the children's best interests siblings should be placed together with same foster carer and if not be geographically close to each other.

xii. Celebration of birthdays and other special occasions

The 2010 Fostering Procedures, Policies and Practice Guide section J4.4 makes reference to birthday allowances.

xiii. Information sharing by the foster carer with family members

The review of casefiles and available paper work did not illicit any reference to this particular area.

e) Who compiled the policies and/or procedures?

The manager responsible for the service at the specific juncture would have compiled policy for approval by the Comhairle. More recently GIRFEC policy was formulated through multidisciplinary processes.

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

The first comprehensive local guidance specific to the area of foster care that we are aware of was put in place in 2010.

g) Were such policies and/or practices reviewed?

These policies should be reviewed regularly, however that has not happened to the degree anticipated. They are currently going through a process of significant review

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

To keep up with changes in legislation, guidance and good practice.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

Changes have occurred in the Western Isles which are of a similar nature to national developments. For example the move towards fostering being seen as a short term care solution rather than long term or moving from unpaid carers to financially supported through fees and allowances.

j) Why were changes made?

To keep up with changes in legislation, guidance and good practice.

k) Were changes documented?

Historically changes do not appear to have been well documented. It requires to be acknowledged that the concepts such as audit trail and self-evaluation are relatively recent constructs. Over periods of time defined by the Inquiry as the past practice was not so heavily supported with policy and procedural documentation.

l) Was there an audit trail?

See 4.3 (i) (k) above.

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 recent years there has been an evolution of practice with the further imbedding of the GIRFEC Agenda. For example there is now a single 'Assessment and Plan' covering all the areas in question and as appropriate.

Self-evaluation processes are an integral part of the documentation which is required to be submitted to the Care Inspectorate prior to an Inspection. Care Inspectorate Reports following Inspection, Children's Services Plans, CSWO Reports have details of changes and good practice developments.

These developments in practice scrutiny have been evolutionary in nature and will inevitably span the period defined by the Inquiry as the past and the present.

(ii) Practice

Past

a) Did the local authority adhere in practice to its policy/procedures relating to the care of children in foster care?

The information available over the bulk of the period defined as the past does not allow a definitive answer to be given to this question.

In recent times, which covers a period which spans the more recent elements of the past and the present the local authority has to the best of our knowledge, and from the review of the files, adhered to the policies and procedures.

In recent years there has been an evolution of practice with the implementation of the GIRFEC Agenda. For example, there is now a single 'Assessment and Plan' covering all the areas in question and as appropriate. Self-evaluation processes and the documentation which is required to be submitted to the Care Inspectorate prior to an Inspection. Care Inspectorate Reports following Inspection, Children's Services Plans, have details of changes and good practice developments

b) Did the local authority adhere in practice to its policy/procedures in terms of the following?

- i. Safeguarding
- ii. Child Protection
- iii. Medical care
- iv. Children's physical wellbeing
- v. Children's emotional and mental wellbeing
- vi. Schooling/education
- vii. Discipline
- viii. Activities and holidays for children
- ix. Sharing a bedroom
- x. Contact with family members
- xi. Contact with siblings
- xii. Celebration of birthdays and other special occasions
- xiii. Information sharing by the foster carer with family members

Our review of the available records would suggest the answer to this question is; yes the Comhairle adhered to its policies and procedures. It is again recognised that there are two individual instances set out in 5.9 where, with the benefit of hindsight, the police should have been involved in investigating incidents. Of course this is based on the available information and for the bulk of the period defined as the past there was little information available.

c) How was adherence demonstrated?

Review of the all available files relating to foster carers and foster children.

In recent years there has been an evolution of practice with the implementation of the GIRFEC Agenda. For example, there is now a single 'Assessment and Plan' covering all the areas in question and as appropriate. Self-evaluation processes and the documentation which is required to be submitted to the Care Inspectorate prior to an Inspection. Care Inspectorate Reports following Inspection, Children's Services Plans, have details of changes and good practice developments.

d) How can such adherence be demonstrated to the Inquiry?

See 4.3 (ii) (c) above.

e) Were relevant records kept demonstrating adherence?

There were few if any records covering the majority of the period defined as the past. Records are more comprehensive in recent times covering the later part of the past and into the present. Case files were reviewed which cover the period from 1975 to the present day. Care Inspectorate reports are in the public arena.

f) Have such records been retained?

There were few if any records covering the majority of the period defined as the past. Records are more comprehensive in recent times covering the later part of the past and into the present.

g) If policy/procedure was not adhered to in practice, why not?

There were few if any records covering the majority of the period defined as the past. Records are more comprehensive in recent times covering the later part of the past and into the present. As such there is no evidence in recent times of policy not being adhered to however it is not possible to make a definitive statement on practice over earlier periods of time.

h) If policy/procedure was not adhered to in practice, what was the practice?

See response to 4.3 (ii) (g)

Present

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

The review of the files would suggest adherence to policy and procedure. Care Inspectorate reports would support this position.

j) If so, please give details.

4.4 Foster carers

(i) Policy

Past

It is not possible to definitively answer this question for the majority of the period defined as the past.

a) What policies and/or procedures did the local authority have in relation to foster carers?

Since 2010 the Comhairle has had **Fostering Procedures, Policies and Practice Guide**

The 2017 Foster Carers Handbook

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

The 2010 **Fostering Procedures, Policies and Practice Guide** give a good indication of the Comhairle's general philosophy:

Philosophy and values

All Councils, when taking on the role of parent whatever the legislative basis for placements, must provide a safe environment, one which helps children and young people have their educational, emotional and developmental needs met and which takes account of their traumatic/damaging life experiences and missed opportunities. There must be opportunities for children and young people to maintain appropriate contact with their birth families, provided it is in their interests, in terms of s.17(1)(c) of the 1995 Act. In placing a child or young person, the Council must take account of religious, cultural and ethnic factors in children and young people's backgrounds, in terms of s.17(4)(c) of the 1995 Act. And the views of children and young people, and of their families, must be taken account of in terms of s.17 (3) and (4) of the 1995 Act.

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

The Particular Needs of Children being looked after and accommodated

Children and young people placed in foster care have a lot of specific and individual needs. All will experience loss, trauma, disruption and dislocation of, and from, everything that is familiar.

This will be so, even if there are aspects of their home circumstances which have been very detrimental and traumatic.

Some will have had experience of physical, emotional and sexual abuse and neglect. They will have experienced a combination of trauma and inconsistency in the provision of positive experiences. These experiences will often be seen in their behaviours.

It is important that foster carers understand the very special tasks that are involved in caring for a child with these experiences.

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

Policy for Fostering Procedures, Policies and Practice Guide 2010

- d) What did the policies and/or procedures set out in terms of the following?
- i. Recruitment

The policy sets the recruitment process: ongoing public information, publicity campaigns, responding to enquiries, information sessions and the criteria for application.

- ii. Standard and size of accommodation

In the criteria for applicants it notes, "They do require to have the space (for example bedroom(s))...

Later in the guidance it notes, "Visits to the applicants' home will include an assessment of space, condition, cleanliness, and health and safety issues."

- iii. Number, age and gender of children accommodated/in the household

This is not specifically dealt with at the recruitment and assessment stage. It is stated that "Children, young people and others living in the household will be met and talked with about the foster care task, their views about the application and how it might affect them."

It is clear from the review of the available files that BAAF assessment documentation was deployed and covered all the above aspects in directing the assessing social worker to fully explore these areas in relation to any future placements.

- iv. Pre-approval/registration checks

At the point a full assessment starts it is clear that there will be criminal record, health & local authority checks. There will also be a proof of identity check done.

There is evidence in the files reviewed that checks were carried out and initial notification made to GP's to inform of intention to foster in order to rule out early on any applicants who were unlikely to be considered due to health issues.

- v. References

From the review of files, some of which dated back to the late 1970s / early 1980s and up to present day, there is evidence of references being requested and provided as part of the process of assessment of prospective foster carers. In more recent years evidence of this has been found in comprehensive Form F documentation.

- vi. Foster care agreements

There is reference in the Comhairle's 2010 fostering guidance to both foster carer agreement (a written agreement at the time the foster carer is approved between them and the Comhairle) and a foster placement agreement which is entered into at the point of each placement.

The guidance notes, "The FPA will be as complete as possible so that effective plans may be made for each child or young person."

- vii. Induction

There is a foster carers' support group, training plan and individual link worker support. This has been in place for at least the past 20 years and has always been supported in practice by social work staff and managers.

viii. Transfer of foster carers to or from other organisations or local authorities

There is no specific mention of this in any documentation nor is there evidence, from the review of the files, of this taking place in practice. This may be due to the geographical location of the Western Isles and the isolated nature of the geography making such a transfer highly improbable.

ix. Review/supervision

The link worker will have regular contact with the carers. They will go back to a fostering panel after an initial year and then three yearly thereafter.

x. Training

From discussion with retired senior staff and the review of the files, foster carers were provided with training relevant to their roles and responsibilities. Much of this was delivered under the auspices of the foster carer support group and was provided by social work staff and managers and/or by invited trainers with specialist knowledge, experience and expertise relevant to specific topics.

The 2010 Comhairle Guidance states:

- The foster carers support group is the main forum for foster care training. Separate arrangements need to be made for carers based in the southern isles (i.e. the Uists and Barra).
- The foster carers support group will be consulted in the preparation of an annual training programme for carers.
- Some training will be provided by Comhairle staff and some by external trainers or consultants.
- Opportunities will be provided for joint staff and carer training.
- Fee paid carers are required to attend some specific training and carer support groups
- Link Workers will prepare a training and development programme with and for each of their carers, which will be monitored and reviewed during supervision visits. Carers' training and development programmes will take into consideration any recommendations from their Foster Carer Review.
- These programmes will be informed by the needs of the children being placed, current research and needs identified by carers and workers.
- A record will be kept of training offered, undertaken, and feedback on it.
- This information will form part of carers' annual reviews.

Specialist foster carers are expected to possess or be working towards an SVQ level 3 qualification

xi. Personal development

See the response to 4.4 (d) (x)

xii. Disciplinary actions

The guidance does not specifically refer to disciplinary action. This may be as a result of the employment status being more akin to a self-employed subcontractor than an employee. In large degree the subject matter which would have been dealt with under a disciplinary process for employees is encapsulated in the section on complaints against foster carers. The process of investigation, including child protection, is set out. Reference is made to an appeals process. Ultimately the issue of potential de-

registration is addressed. The Fostering and Adoption Panel would inevitably be involved in these processes.

xiii. Removal of approval/registration

The 2010 Comhairle guidance states

- A recommendation to terminate a carer's approval must be made formally by the panel.
- The panel will have available reports and information from the supervising social worker, carer, and any information and preparation procedures set out in M4.1. (preparation for a fostering panel_
- Where the carer has requested termination of approval, the reasons for this will be clearly set out in the reports.
- The carer will have access to the reports and information being considered by the panel.
- The carer will be invited to attend the panel and to make representations and present any written information.
- At the start of the panel meeting, the chair will explain clearly to the carer and the review panel:
 - that the purpose of the panel is to review the carer's approval and consider terminating it;
 - the process of the panel review; and
 - the carer's rights to complain and/or appeal, with support such as from Fostering Network.
 - The carer will be asked to explain her/his views and wishes as part of the review.
 - At the end of the review, the panel will make its recommendation to the Agency Decision Maker.
 - A record or minutes of the review panel will be made, including any comments by the carers.
 - Where the carer has requested termination of approval, this will be outlined in the minutes including the reasons for the withdrawal.
 - The recommendation will be shared with the carer, at the fostering panel, or if not present, as soon as practicable thereafter.

After panel

- The recommendations and minutes of the review panel or meeting, together with the reports discussed there, will be passed to the Agency Decision Maker for his/her decision, and the carers written to thereafter
- The Agency Decision Maker will make the decision within 14 days of the panel recommendation, deciding whether or not to terminate the carer's approval.
- The decision will be intimated in writing to the carer within 7 days thereafter.
- Where the Agency Decision Maker agrees with a recommendation from the panel to terminate the carer's approval, the letter sent to the carer should include information about:
 - the Comhairle's complaints procedure;
 - the Care Commission's complaints procedure; and
 - the process for reviewing a decision to terminate approval.
 - This information should be clear about the difference between a complaint regarding the handling of an application and a request to review the conclusion reached by the panel and Agency Decision Maker on the termination of approval.
 - The information should include information about support available to the carer.
 - Procedures for reviews and complaints by carers are detailed in Section O.
 - Where the panel recommendation was not to terminate approval and the Agency Decision Maker disagrees with this, the Agency Decision Maker may ask the panel to reconsider its recommendation but does not have to do so.
 - Such a reconstituted reconsideration panel will be arranged within 28 days of the Agency Decision Maker's request for reconsideration.
 - Carers have the right to request a reconstituted reconsideration panel.
 - The procedures in N4.1 for before, at, and after the panel will be followed.
 - An alternative Agency Decision Maker (eg the Chief Social Work Officer) will make a decision within 14 days of the reconsideration panel's recommendation.
 - Where the alternative Agency Decision Maker decides to terminate the carer's approval, whatever the panel recommendation, the letter sent to the carer should include information about:
 - the Comhairle's complaints procedure;
 - the Care Commission's complaints procedure; and
 - the Comhairle's process for reviewing a decision to terminate approval

After any termination of approval

- Any other local authority using the carer will be informed of this as soon as possible.

- The carer's record will have the termination noted with all the reports and minutes and will be closed.

e) Who compiled the policies and/or procedures?

The manager responsible for the service at the specific juncture would have compiled policy for approval by the Comhairle. More recently GIRFEC policy was formulated through multidisciplinary processes

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

The first comprehensive guidance that we are aware of was put in place in 2010.

g) Were such policies and/or practices reviewed?

These policies should be reviewed regularly, however that has not happened to the degree anticipated. They are now going through a process of significant review

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

To keep up with changes in legislation, guidance and good practice.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

Changes have occurred in the Western Isles which are of a similar nature to national developments. For example the move towards fostering being seen as a short term not a long term care solution or moving from unpaid to financially supported through fees and allowances.

j) Why were changes made?

To keep up with changes in legislation, guidance and good practice.

k) Were changes documented?

Historically changes do not appear to have been well documented. It requires to be acknowledged that the concepts such as audit trail and self-evaluation are relatively recent constructs. Over periods of time defined by the Inquiry as the past practice was not so heavily supported with policy and procedural documentation.

Care Inspectorate reports and associated paperwork will also document the development of the service.

l) Was there an audit trail?

See 4.4 (i) (k) above.

Present

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

No, procedures are substantively the same as reported above.

n) If so, please give details.

(ii) Practice

Past

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

The information available over the bulk of the period defined as the past does not allow a definitive answer to be given to this question.

In recent times, which covers a period which spans the more recent elements of the past and the present the local authority has to the best of our knowledge adhered to the policies and procedures.

b) Did the local authority adhere in practice to its policy/procedures in terms of the following?

- i. Recruitment
- ii. Standard and size of accommodation
- iii. Number, age and gender of children accommodated/in the household
- iv. Pre-approval/registration checks
- v. References
- vi. Foster care agreements
- vii. Induction
- viii. Transfer of foster carers to or from other organisations or local authorities
- ix. Review/supervision
- x. Training
- xi. Personal development
- xii. Disciplinary actions
- xiii. Removal of approval/registration

Our review of the available records would suggest the answer to this question is; yes the Comhairle adhered to its policies and procedures. Of course this is based on the available information and for the bulk of the period defined as the past there was little information available.

c) How was adherence demonstrated?

Review of all available files.

d) How can such adherence be demonstrated to the Inquiry?

The documentation reviewed by the file review clearly indicates the existence of key paper work such as Form F.

e) Were relevant records kept demonstrating adherence?

There were few if any records covering the majority of the period defined as the past. Records are more comprehensive in recent times covering the later part of the past and into the present.

- f) Have such records been retained?

There were few if any records covering the majority of the period defined as the past. Records are more comprehensive in recent times covering the later part of the past and into the present.

- g) If policy/procedure was not adhered to in practice, why not?

There were few if any records covering the majority of the period defined as the past. Records are more comprehensive in recent times covering the later part of the past and into the present. As such there is no evidence in recent times of policy not being adhered to however it is not possible to make a definitive statement on practice over earlier periods of time.

Present

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

The review of the files would suggest adherence to policy and procedure

- i) If so, please give details.

4.5 Other members of the foster carer's household

It is not possible to definitively answer this question for the majority of the period defined as the past.

(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?

To the best of our knowledge there was no significant policy in place in relation to other members of the foster carers' household. There is reference in the 2010 Fostering Procedures, Policies and Practice Guide to other members of the household including children being spoken with regarding the fostering task.

As such it is impossible to answer the questions set out in underneath.

- b) Was there a particular policy and/or procedural aim/intention?
- c) Where were such policies and/or procedures recorded?
- d) Who compiled the policies and/or procedures?
- e) When were the policies and/or procedures put in place?
- f) Were such policies and/or practices reviewed?
- g) If so, what was the reason for review?
- h) What substantive changes, if any, were made to the policies and/or procedures over time?
- i) Why were changes made?
- j) Were changes documented?
- k) Was there an audit trail?

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.

It is now practice to carry out full background checks on any one living in the foster carers' household over the age of 16 years old.

(ii) Practice

It is not possible to definitively answer this question for the majority of the period defined as the past. Additionally as stated above in the response to 4.5 (i) (a) there does not appear to have been a policy and as such it is not possible to answer the questions below.

Past

- a) Did the local authority adhere in practice to its policy/procedures in relation to other members of the foster carer's household?
- b) How was adherence demonstrated?
- c) How can such adherence be demonstrated to the Inquiry?
- d) Were relevant records kept demonstrating adherence?
- e) Have such records been retained?
- f) If policy/procedure was not adhered to in practice, why not?

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.

It is now practice to carry out full background checks on any one living in the foster carers' household over the age of 16 years old. This is adhered to.

4.6 Placement of children by the local authority with foster carers approved/registered by other local authorities or organisations

It is not possible to definitively answer this question for the majority of the period defined as the past. To be the best of our knowledge 'off island' placements have always been a rare occurrence. During the course of the review of the available files there were only two such instances identified. In the last year there have been a further two however both were placements of young children, one a new born, with prospective adopters

(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?

In the **Fostering Procedures, Policies and Practice Guidance** there is a section entitled 'Arrangements with Voluntary, Not for Profit Organisations.

Procedures

- The Comhairle will, when necessary, consider making an arrangement for a child or young person to be fostered by a voluntary, not-for-profit organisation.
- Referrals for a place out with the Comhairle's own resources with a voluntary will be discussed at the Mainland Placement Panel which has the authority to authorise exploration of the resources and agree funding.
- The Comhairle remains responsible for all looked after children and young people placed with voluntary organisations, including for:
 - o their welfare;
 - o the Foster Placement Agreements;
 - o case management of placements;
 - o notification of placements;
 - o record keeping for the children and young people; and
 - o any other matters such as arrangements for education and medical consent issues.
- The manager of the fostering service will maintain a record of all placements made with voluntary organisations.
- The Team Leader Children and Families will be responsible for organising the Foster Placement Agreements for all placements with voluntary organisations.
- Social Workers will continue to hold responsibility for the children and young people placed with voluntary organisations.
- In particular, they will be responsible for visiting and supporting the children and young people as they would be for those placed with Comhairle foster carers.
- Looked After Children's Reviews are the responsibility of the Comhairle
- Managers and supervising social workers of the relevant voluntary organisations will be invited to these reviews.
- In terms of reg.48/49 of the Looked After Children (Scotland) Regulations 2009:
 - o where possible the child or young person's social worker or senior will visit her/him within 14 days of any request by the voluntary organisation to do so;
 - o when possible the child or young person's social worker or line manager will visit as soon as possible and in any case within 3 days if and when any questions are raised about the welfare of the child or young person;
 - o the manager of the fostering team will be kept informed of all such visits;
 - o a record will be kept, by the social worker for the child, of all concerns raised in terms of reg. 17.
 - o arrangements will be reviewed at intervals of no more than 12 months.
 - o no fostering service shall be permitted to place a child outside the UK.

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

The Comhairle's 2010 guidance states the aim of this element of the procedures is:

- To ensure that the Comhairle meets the needs of the children and young people they are looking after.
- To ensure that when making arrangements to place children and young people with voluntary, not-for-profit organisations, the Comhairle fulfils its statutory responsibilities.
- To ensure that the Comhairle has appropriate arrangements to manage placements with non-Comhairle foster carers.

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

Yes

d) Who compiled the policies and/or procedures?

The manager responsible for the service at the specific juncture would have compiled policy for approval by the Comhairle. More recently GIRFEC policy was formulated through multidisciplinary processes

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

The first comprehensive guidance that we are aware of was put in place in 2010.

f) Were such policies and/or practices reviewed?

These policies should be reviewed regularly, however that has not happened to the degree anticipated. They are now going through a process of significant review

g) If so, what was the reason for review?

To keep up with changes in legislation, guidance and good practice.

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

Changes have occurred in the Western Isles which are of a similar nature to national developments. For example the move towards fostering being seen as a long term to a short term care solution or moving from unpaid to financially supported through fees and allowances

i) Why were changes made?

To keep up with changes in legislation, guidance and good practice.

j) Were changes documented?

Historically changes do not appear to have been well documented. It requires to be acknowledged that the concepts such as audit trail and self-evaluation are relatively recent constructs. Over periods of time defined by the Inquiry as the past practice was not so heavily supported with policy and procedural documentation.

k) Was there an audit trail?

See section 4.6 (l) (j) above. Care Inspectorate reports and the associated preparatory paper work will demonstrate developments in practice

Present

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

No, the Comhairle continues to predominantly use its own resources in the belief it is in the children's best interests where ever possible to be able to grow up in their home communities and culture. The only fostering resources on the islands are Comhairle ones.

- m) If so, please give details.

(ii) Practice

It is not possible to definitively answer this question for the majority of the period defined as the past.

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?

Our review of the available records would suggest the answer to this question is that yes, the Comhairle adhered to its policies and procedures. Of course this is based on the available information and for the bulk of the period defined as the past there was little information available. It is worth noting that this conclusion is based on only two recorded cases of such a placement

- b) How was adherence demonstrated?

Review of all available records.

- c) How can such adherence be demonstrated to the Inquiry?

The documentation reviewed by the file review clearly indicates the existence of key paper work such as Form F. Again it should be noted that this is based on the on the records of only two such placements

- d) Were relevant records kept demonstrating adherence?

There were few if any records covering the majority of the period defined as the past. Records are more comprehensive in recent times covering the later part of the past and into the present.

- e) Have such records been retained?

There were few if any records covering the majority of the period defined as the past. Records are more comprehensive in recent times covering the later part of the past and into the present – they have been retained.

- 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?

No, the Comhairle continues to predominantly use its own resources in the belief it is in the children's best interests where ever possible to be able to grow up in their home communities and culture. The only fostering resources on the islands are Comhairle ones.

Record keeping is significantly improved. For example all records are now based on the electronic Care First system and are about to be transferred to an upgraded system called Eclipse.

- h) If so, please give details.

4.7 Complaints and Reporting

(i) Policy

Past

It is not possible to definitively answer this question for the majority of the period defined as the past.

What policies and/or procedures did the local authority have in place in relation to complaints and reporting about foster care?

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

The Comhairle's 2010 guidance points to two intentions.

Firstly to ensure that complaints and allegations against carers are dealt with in a fair, clear, robust, open and accountable way.

Secondly to ensure that the welfare and protection of children and young people remain at the centre of the process, while being fair to carers

- b) Where were such policies and/or procedures recorded?

Specific policy concerning foster carers is encapsulated in the 2010 Fostering Procedures, Policies and Practice Guidance.

There are more general corporate complaints policies which are available on the Comhairle website

Comhairle Committee records.

- c) What did the policies and/or procedures set out on the following:

i. Complaints by children

There is nothing specific in relation to complaints by children.

ii. Complaints by foster carers

There is a section in the Comhairle's 2010 guidance specifically relating to 'Appeals, Reconsiderations and Complaints' against carers. There is a process laid out 'to give carers the appropriate processes to make appeals, representations and complaints on their own behalf or behalf of a child or young person in their care...' It refers the reader to the Comhairle's corporate complaints procedure.

iii. Complaints by family members of children

There is nothing specific in relation to complaints by family members of children

iv. Complaints by third persons

There is nothing specific in relation to complaints by third persons

v. Whistleblowing

There is nothing specific in fostering guidance about whistleblowing, however the council's corporate whistleblowing policy would cover this.

vi. Support, including external support, for those who made the complaint or those who were the subject of complaint

There is reference within the Comhairle's 2010 guidance to support for the foster carer if an allegation is made against them. Independent support from the Fostering Network, continued appropriate support from the carer's link worker and the opportunity for reflection following the conclusion of the complaint process.

vii. Response to complaints (including response by the local authority)

There is detailed procedure on the appropriate response to a complaint set out in the Comhairle's 2010 guidance.

- Whenever an allegation is made the duty social worker should be informed without delay. Within the same working day the Fostering Manager and Child and Families Team Leader should undertake discussions about the nature of the allegation and the actual or potential impact on the child.
- If the complaint or allegation involves Child Protection matters, then it will be dealt with under the Council's Child Protection Procedures.
- As soon as a decision is taken to initiate a Child Protection investigation, the Fostering Manager will inform the Agency Decision Maker and the Scottish Commission for the Regulation of Care.
- This should be fully explained to the foster carer by their link worker and arrangements made for independent support for the foster carer(s). This should also include legal advice.
- Appropriate support should continue until such times as a decision is taken to de-register the carer(s) or not.
- Any necessary steps to remove children or young people from the carer's home, including her/his own children, should be taken under the Council's Child Protection Procedures.
- If children are to be moved from a placement because of an allegation, the reasons for this should be explained carefully to them, using appropriate methods of communicating with younger children or children with special needs.
- Once the Child Protection investigation is completed, the carer's link worker will prepare a report and arrange a review meeting to discuss the outcome with the carer and others.

- Any decision to end a Child Protection investigation should result in the Agency Decision Maker, Fosters Carers, relevant staff and the Scottish Commission for the Regulation of Care being informed.
- If the investigation recommends that the carer's approval should be varied or terminated, a review fostering panel should be arranged as soon as
- The procedures for Reviews and Terminations in Sections M and N should be followed.
- The procedures for Appeals in Section O if the carer is not satisfied with the outcome of the Fostering panel and Agency Decision Maker's decision should be followed.
- If the investigation indicates that a carer or member of the carer's family should be referred to the Disqualified from Working with Children list, notification should be made.
- Following an allegation there should be opportunity for family placement staff to reflect on their experiences of managing the allegation and any implications for future practice.
- Consideration should be given to arrangements for informing birth parents that an allegation has been made against the carers looking after their child. The child's social worker will normally carry out this task.

viii. External reporting of complaints

Complaints would be reported to the authority relevant at any particular point in time.

d) Who compiled the policies and/or procedures?

The manager responsible for the service at the specific juncture would have compiled policy for approval by the Comhairle. More recently GIRFEC policy was formulated through multidisciplinary processes.

This area of practice is to some extent governed by corporate policy and it would have been the relevant manager within the corporate team who would have compiled policies such as Complaints or Whistleblowing.

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

The first comprehensive guidance that we are aware of was put in place in 2010.

The Comhairle does have a complaints policy and a whistleblowing policy. These complaints policy was reviewed most recently in 2015 and previous to that in 2012. It is compliant with relevant national guidance. The whistleblowing policy was reviewed in 2012 and more recently in 2014/15

f) Were such policies and/or practices reviewed?

These policies should be reviewed regularly, however that has not happened to the degree anticipated with the fostering specific procedures. They are now going through a process of significant review

See 4.7 (i) (e) above.

g) If so, what was the reason for review?

To keep up with changes in legislation, guidance and good practice

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

It is not possible to definitively answer this question for the majority of the period defined as the past.

Changes have occurred in the Western Isles which are of a similar nature to national developments.

i) Why were changes made?

To keep up with changes in legislation, guidance and good practice

j) Were changes documented?

Historically changes do not appear to have been well documented. It requires to be acknowledged that the concepts such as audit trail and self-evaluation are relatively recent constructs. Over periods of time defined by the Inquiry as the past practice was not so heavily supported with policy and procedural documentation.

k) Was there an audit trail?

See section 4.7 (i) (j) above. Care Inspectorate reports and the associated preparatory paper work will demonstrate developments in practice

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.

There have been changes to the way complaints are dealt with however much of this is in relation to advancements in technology and there is now an electronic complaint system. Notifications are now sent to the Care Inspectorate via e-forms.

(ii) Practice

Past

It is not possible to definitively answer this question for the majority of the period defined as the past.

a) Did the local authority adhere in practice to its policy/procedures in relation to complaints and reporting about foster care?

Our review of the available records would suggest the answer to this question is; yes the Comhairle adhered to its policies and procedures. There is an acknowledgement that in two individual instances and with the benefit of hindsight the police should have been involved in investigating 2 complaints and were not. Of course this is based on the available information and for the bulk of the period defined as the past there was little information available

It is recognised from discussion with retired senior staff that in periods of the past that general complaints were handled more informally, through discussions with the parties involved to resolve matters. There is no evidence of such informality being involved in any complaints of abuse by a foster carer.

- b) Did the local authority adhere in practice to its policy/procedures on the following:
- i. Complaints by children
 - ii. Complaints by staff
 - iii. Complaints by family members of children
 - iv. Complaints by third persons
 - v. Whistleblowing
 - vi. 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)
 - viii. External reporting of complaints

In so far as policy existed in the areas mentioned and from the information available to us it would appear the Comhairle generally adhered to the policies in place.

- c) How was adherence demonstrated?

Review of all available records

- d) How can such adherence be demonstrated to the Inquiry?

There are records in the files of the complaints made and outcomes of complaint process.

- e) Were relevant records kept demonstrating adherence?

There were few if any records covering the majority of the period defined as the past. Records are more comprehensive in recent times covering the later part of the past and into the present.

- f) Have such records been retained?

There were few if any records covering the majority of the period defined as the past. Records are more comprehensive in recent times covering the later part of the past and into the present.

- g) If policy/procedure was not adhered to in practice, why not?

As set out in Section 3 the review of the file of files demonstrates that there was no systemic non adherence to policy / procedure

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.

Any complaints of abuse made by a child against their foster carer would be dealt with through child protection processes if necessary. This would result in all appropriate reporting to Care Inspectorate and senior council staff. Such complaints would, if appropriate, be recorded through a multi-agency Initial Referral Discussion process and the course of action overtly set out.

More general complaints would be dealt with via the Comhairle's corporate complaints process which is tightly recorded, audited and reported to elected members. There would be the opportunity to appeal any decision to the Ombudsman if the complainant was unhappy about the internal complaints process or outcome.

4.8 Internal Investigations

(i) Policy

Past

It is not possible to definitively answer this question for the majority of the period defined as the 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?

In more recent times covering the latter part of the past and the present complaints of a child protection nature would be jointly facilitated by police and practice team social work. These cannot be seen as internal investigations as they were multidisciplinary responses and involved staff from outside the Comhairle. As such in recent times there would be no internal investigations relating to abuse or alleged abuse.

Non child protection based complaints were termed by the Comhairle's 2010 guidance as 'Other complaints or allegations'. These were dealt with through the relevant complaints procedure in force at the time.

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

The Comhairle's 2010 guidance points to two aims:

Firstly to ensure that complaints and allegations against carers are dealt with in a fair, clear, robust, open and accountable manner.

Secondly to ensure the welfare and protection of the children and young people remain at the centre of the process, while being fair to carers.

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

These policies are referenced in the Comhairle's 2010 Guidance 'Fostering Procedures, Policies and Practice Guide. The core policies however would be Child Protection and Complaints

- d) What did the policies and/or procedures set out on the following:

It is not possible to definitively answer this question for the majority of the period defined as the past. Certainly in the recent times spanning the past and the present internal investigation would not have been the route for dealing with allegations of abuse. This would have required multidisciplinary joint work with the police. As such it is not possible to answer the questions on internal investigations.

Following a review of all files relating to foster carers and the children in their care we can find no reference to any internal investigations.

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

There is no policy relating to internal investigations of abuse.

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

There is no policy relating to internal investigations of abuse

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

There is no policy relating to internal investigations of abuse

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

Not applicable.

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

Not applicable.

- j) Why were changes made?

Not applicable.

- k) Were changes documented?

Not applicable.

- l) Was there an audit trail?

Not applicable.

Present

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

No

n) If so, please give details.

(ii) Practice

Past

It is not possible to definitively answer this question for the majority of the period defined as the past.

From discussion with retired senior social work staff they were able to recall, the period from the late 1970s through into the early 1990s when what was termed non-accidental injury would have been initially investigated by social work, probably in consultation with health services. Police involvement would have been initiated if health and social work concluded there may have been a crime committed. We have no record of local procedures at that time, however this would have been a common approach for the period and replicated in all other local authorities.

Certainly in the recent times spanning the past and the present internal investigation would not have been the route for dealing with allegations of abuse. This would have required multidisciplinary joint work with the police. As such it is not possible to answer the questions on internal investigations.

Following a review of all files relating to foster carers and the children in their care we can find no reference to internal investigations relating to abuse of children in foster care.

- 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?
- b) Did the local authority adhere in practice to its policy/procedures 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
- c) How was adherence demonstrated?
- d) How can such adherence be demonstrated to the Inquiry?
- e) Were relevant records kept demonstrating adherence?
- f) Have such records been retained?
- g) If policy/procedure was not adhered to in practice, why not?

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.

Certainly in the recent times spanning the past and the present internal investigation would not have been the route for dealing with allegations of abuse. This would have required multidisciplinary joint work with the police. As such it is not possible to answer the questions on internal investigations.

4.9 Record keeping

(i) Policy

Past

It is not possible to definitively answer this question for the majority of the period defined as the past.

a) What policies and/or procedures did the local authority have on record keeping in relation to foster care?

It has previously been noted that the social work service was a generic one until the mid 1990s. Record keeping for foster carers was mainly noted in the child's file.

In the Fostering Procedures, Policies and Practice Guidance there is a section entitled 'Record Keeping about Foster Carers'. It states:

- At the point of enquiry by a prospective carer a record will be opened by the relevant social worker (Adoption and Fostering Team).
- The record will contain details of the assessment, home study, fostering panel meeting, recommendation and decision to approve or not approve.
- The record will include:
 - the Foster Carer Agreement for Services
 - a front sheet for the carer's file that includes note of each placement made with the carer. This will include the age, sex, ethnicity and name of the child, the date(s) of the placement and reasons for ending the placement;
 - all Foster Placement Agreements for children and young people placed with the carer;
 - annual review reports;
 - updated statutory checks; and
 - a record of any information disclosed and to whom.
 - The records for each carer should specifically include:
 - the carer's address and date of birth;
 - the name, address and for example number of the carer's next of kin, or of any person authorised to act on the carer's behalf;
 - the date when the service was first provided to the carer;
 - incidents detrimental to the carer's health or welfare;
 - any complaints by the carer about the service, with the outcome of the complaint and any action taken; and
 - where applicable, details of the death of the carer.
 - a chronology of significant events
 - The records should reflect the key policy and practice issues outlined in L3, particularly to ensure that relevant information is cross-referenced appropriately.
 - Where any information in a carer's records (or in children and young people's records) forms part of the Comhairle's or any other adoption agency's Adoption Records, this must be clearly marked. (Note Adoption Agencies Regulations 2009)
 - Carer's records will be audited on an annual basis by the Fostering Services manager to ensure that records and checks are maintained.

- When a carer's approval is terminated, and s/he ceases to care, the records will be reviewed and kept for at least 25 years, or her/his death, whichever is earlier.
- When a carer's approval has been terminated because of concerns, allegations, etc, this will be clearly flagged so that files may be kept for longer if this is appropriate.

b) What policies and/or procedures did the local authority have on record keeping by foster carers?

In the Foster Care Agreement it states that the carer, where appropriate, shall be provided with a diary in which to record significant events.

Confidentiality and Record keeping are covered in the Foster Carers Handbook and Data Protection is covered in the Foster Care Agreement.

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 purpose of the policy as set out in the 2010 Comhairle guidance was:

- To fulfil the Comhairle's legal obligations to maintain carers' records.
- To have access to information which could be important to children and young people looked after by the Comhairle.
- To have access to information which could be important to carers.
- To have access to information which could be significant in future applications by carers to care again

d) What did the policies and/or procedures set out in relation to record keeping on the following:

i. Children in foster care

The Foster Carers Handbook states:

The importance of record keeping has increased over the years; foster carers are increasingly asked to attend Court and Case Conferences and are always expected to attend a child/young person's Looked After Child Review.

Foster carers make a unique contribution as a result of their daily observations of the child/young person in the foster home, in the community and during visits. It is, therefore, important that foster carers are able to record and convey these observations accurately and that, as far as possible, they reflect both positive and negative aspects of the child/young person's daily life, as well as any concerns that arise.

It is not necessary to make long or detailed notes, just enough to enable you to recall events accurately. It is essential that the facts should be recorded, but if you feel you also need to record opinion, and then make sure you clearly say it is your opinion. Although the length of time this will take will vary depending on the day's events, five to ten minutes per child should be all you need.

A daily record will help to:

- Recall accurately behaviour or incidents (including dates) either positive or negative and provide a balanced picture of particular events.
- Assist in looking at the progress of a placement and help in developing a picture over time of the child/young person's pattern of behaviour in various situations;
- Inform decision making at meetings;
- Reflect on your own practice;
- Provide the information needed for giving evidence, or writing a report for Court;
- Support an application for additional help, e.g. therapy for a child;
- Reduce the risk to you and your family of allegations or complaints while the child/young person is in your care and in some circumstances after the child/young person has moved on.
- Identify any changes following contact. This is important when planning for returning home; Children's Hearings, court etc.

ii. Foster carers

Foster Care Agreement states: It is agreed that the child's social worker, link worker or any other representative of the Agency shall visit the child and the carers at intervals laid down in the placement agreement or more frequently if necessary. The social worker has a duty to see the child alone unless otherwise agreed.

The expectation would be that this is recorded in the case file. It is clear from the review of the files that until recent times observations on the foster carers tend to be recorded in the children's files. Foster carers now have there on file.

iii. Visits to children and foster carers

See 4.9 (d) (ii)

iv. Complaints

The Foster Carers Handbook states:

Caring for someone else's children is a complex task and fostering a child will place great demands on the carer and their family. Sometimes a complaint may be made against them. For example, a child may complain to their social worker that they are not getting enough pocket money. A member of the child's family may complain about the child's clothing or a neighbour may complain about their car being damaged. If a complaint is made about a service provided on behalf of the Comhairle, it has to be investigated.

Depending on the nature of the complaint, it may be resolved through a joint meeting with the carer's social worker and the child's social worker or it may involve meeting with the social worker and his or her manager. If it is not possible to resolve the issue or it is more serious, a formal complaint can be made to the Head of Service. The social worker from the Fostering & Adoption Team will support you and keep you in touch with what is happening.

Occasionally a child or member of their family may make an allegation against a carer. This may happen when:

- Something has happened recently that reminds the child of an event that took place before the child was with the carer.
- It is a way of a child trying to regain control over his or her life.
- The child misinterprets an innocent action such as putting an arm round them to offer comfort.
- The child or his/her family sees making a false allegation as a way of getting away from the foster home.
- He or she has actually been abused by the carer or a member of their family.

It is recognised by everyone concerned that such allegations are stressful and difficult for foster carers and every effort is made to deal with matters as sensitively as possible. Advice is given from the outset as to how foster carers can implement safer caring approaches and to avoid acting in ways which may be misinterpreted.

If allegations are made, they are investigated in accordance with the Department's child protection guidelines. All allegations of abuse about a carer are dealt with by appropriately trained child protection staff and senior managers of the Department and police. Such investigations are uncommon but can take considerable time to conclude.

The Council has a duty of care towards carers and carers will receive clear advice about process and timing. The carer's social worker will ensure the carer has adequate information about what is happening and potential sources of advice and support, although they will not be able to discuss the detail of the allegation.

The Department provides individual membership of the Fostering Network. This can provide both personal and individual support as well as legal support and, if necessary, any legal expenses. The Fostering

Network's booklet *Allegations against foster carers* contains valuable information about what is likely to happen if an allegation is made, the investigation, legal procedures and where to get support.
Working with Children and Families

Children in placement should not have to move unless it is the only immediate, safe solution or they refuse to remain in the placement. This will be balanced against the need to minimise distress and disturbance. If it is decided that the child should be moved, this can happen immediately without any period of notice. Written notice of the decision and confirmation of the date that the placement ended will be given as soon as possible.

The Fostering Network's advice and mediation service can be contacted on 0141 204 1400 or www.fostering.net

If you have a complaint

All carers have the right to complain about the service that they are offered or if they feel they have not been treated fairly. Complaints can be a helpful way of highlighting gaps in services and help to maintain a high quality service. Comments, complaints and issues should, wherever possible, be resolved in discussion between yourself and your social worker. If that is not possible, a meeting can be arranged with their line manager or a more senior manager. If you are unhappy with the response, or feel unable to approach staff directly, you can write to or telephone the Head of Service on 01851 822737.

- v. Investigations (both internal and external)

See 4.9 (d) (iv)

- vi. Discipline

See 4.9 (d) (iv)

- vii. Responding to requests from former children in foster care for information/records

The 2010 Fostering Policy, Procedures and Guidance states:

Any other person wanting access to open or closed carers' records should make a formal request to the Fostering Services Manager subject to any restrictions under the Adoption Agencies Regulations 2009 when the information is part of an adoption agencies records. Such requests should be processed following the Comhairle's Data Protection Access procedures, and a record of the information disclosed must be kept. Requests for access to children and young people's information and records should be dealt with under the child care, looked after and Data Protections Access procedures. Where any information in carers' records or in children and young people's records forms part of the Comhairle's or any other adoption agency's Adoption Records, that information is not subject to the Data Protection Access subject access rules and should only be disclosed in terms of reg.27 and 28 of the Adoption Agencies Regulations 2009.

- viii. Other issues relevant to foster care
 - e) Who compiled the policies and/or procedures?

The manager responsible for the service at the specific juncture would have compiled policy for approval by the Comhairle.

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

2010 Fostering Policy, Procedures and Guidance
2017 Foster Carers Handbook

- g) Do such policies and/or procedures remain in place?

Yes

h) Were such policies and/or practices reviewed?

The 2010 Fostering Policy, Procedures and Guidance has not yet been comprehensively reviewed. The 2017 Foster Carers Handbook is due to be reviewed now.

i) If so, what was the reason for review?

The current reviews are to ensure updates in relation to policy, guidance and best practice.

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

The current reviews are not complete at the time of writing.

k) Why were changes made?

The current reviews are to ensure updates in relation to policy, guidance and best practice.

l) Were changes documented?

The reviews which resulted in the writing of the 2010 guidance and the 2017 Foster Carers Handbook were documented in the form of the guidance and handbook. The current review will lead to a similar form of documentation.

m) Was there an audit trail?

See 4.9 l) above.

Present

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

No.

o) If so, please give details.

Not applicable.

(ii) Practice

Past

It is not possible to definitively answer this question for the majority of the period defined as the past.

a) Did the local authority adhere in practice to its policy/procedures in relation to record keeping?

The review of the files would suggest that the record keeping policy was generally adhered to. With the various professionals who have been involved in keeping records over time there is undoubtedly variance in style and indeed in some instances in quality.

- b) Did the local authority check adherence in practice to its policies and/or procedures in relation to record keeping by foster carers?

The review of the files do not indicate overtly that checking took place. The memory of retired senior staff is that record keeping would be a regular part of the supervision processes in the period described as the recent past.

- c) Did the local authority adhere in practice/check adherence in practice to its policy/procedures in relation to record keeping on the following:

See 4.9 (ii) (b) & (c).

- 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?

See 4.9 (ii) (b) & (c).

- e) Were relevant records kept demonstrating adherence?

There is no evidence of records being kept demonstrating adherence beyond the case files themselves.

- f) Have such records been retained?

There is no evidence of such records being retained.

- g) If policy/procedure was not adhered to in practice, why not?

The review of the files would suggest policy was generally adhered to.

- 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?

Yes

- i) If so, when did the reviews take place, what documentation is available, and what were the findings?

The review took place over a 6 month period spanning November 2019 to May 2020.

- j) How have the outcomes of investigations been used to improve systems, learn lessons?

The review of files will undoubtedly feed into the current review of the 2010 procedures and the 2017 foster carers' handbook.

k) What changes have been made?

There were no immediate changes which required to be made however there will be reflection on anything which emerges. The review is only finishing as this submission is written. There is assurance from the external inspection of fostering by the Care Inspectorate in 2019. Fostering was assessed as being very good

l) How are these monitored?

Progress will be monitored through a number of routes. There will be a strengthened self-evaluation process. There is a developing relationship with Action for Children fostering & adoption services which will allow for more consistent peer review. There will be continuing inspection activity by the Care Inspectorate.

m) Did the local authority afford former children in care access to records relating to their time in foster care?

The local authority does give former looked after children the opportunity to see their files. This did not happen during the period of the file review.

n) If so, how was that facilitated?

Care experienced adults would have the opportunity to see their files in a confidential space which would be negotiated with them. They would be offered the opportunity of professional support during their reading of the file

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 in foster care would have their records kept in the same way as any other child who had contact with social work. At the moment this on the Care First electronic system. This is about to be upgraded to the Eclipse system.

ii. Staff with responsibilities for foster care

General personnel files.
Confidential supervision files.

iii. Foster carers

Foster carer files have more recently moved onto electronic recording and some of the longer term foster carers have both hard copy and electronic. As is the case with children in foster care these files will move to an upgraded system called Eclipse over the course of the next year.

iv. Complaints

These are collated centrally by our corporate team. Records are kept of the complaint and outcome. Reports are provided for elected members and heads of service which analyse themes.

If the complaint in question was of a child protection nature this would be recorded in both the child's and foster carers' case files.

v. Investigations (both internal and external)

See 4.9 (ii)(r)(iv) above.

vi. Responding to requests from former children in foster care for information/records

The response to such a request, the process and outcome would be recorded on that person's file. If however it came through a SAR request that would be recorded and dealt with by our legal section in line with current legislation and procedure.

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?

It is not possible to answer this question definitively for the majority of the period defined as the past.

The file review has disclosed no evidence of any foster carer in the Western Isles being convicted of abuse of any kind. Our review of cases has revealed that no foster carers have, to the best of our knowledge, been convicted of abuse. There were three instances where the local authority concluded on the balance of probabilities that a foster carer had:

- Struck a child (the child was removed from their care and the foster carer de-registered).
- Acted inappropriately, in a sexualised manner, towards a child who was no longer in their care; the foster carer was de-registered.
- Struck a child; incident viewed, following investigation, as a lack of appropriate control in dealing with consistent verbal abuse and guidance issued. The placement continued satisfactorily. No further placements made.

The following response refers to the recent past up until December 2014:

There were a total of ten allegations of abuse against seven separate individuals, which accounts for their being listed below as seven cases: three of the cases, numbered 4, 5 and 7 below, each involved two separate allegations. Of the ten allegations, nine were made against foster carers and one against another child in the household.

Of the ten allegations made, four were physical in nature (but one is deemed not to have been an assault or to have been abusive in nature), five related to alleged sexual abuse and one to supplying cannabis and allowing it to be smoked by a child in the carer's care. Following investigation there was no action taken to refer to the police in three of these cases (including the non-abusive case referred to in this paragraph). In two cases the police determined that a report to the Procurator Fiscal (PF) was unnecessary. Three further cases were dropped by the PF. In one instance the allegation was made to social work approximately a decade after the alleged incident; although advised to contact the police, the complainant did not make a complaint to the police. The only one which came to court related to the allegations involving drug use (Case 1) and in this instance a not guilty plea was accepted by the Crown.

5.2 Extent

- a) What is the local authority's assessment of the scale and extent of abuse of children in foster care?

It is not possible to definitively answer this question for the majority of the period defined as the past.

Our review of cases has uncovered that no foster carers have, to the best of our knowledge, been convicted of abuse. The number of allegations uncovered was small.

There were three instances where the local authority concluded on the balance of probabilities a foster carer had:

- Struck a child; the child was removed from their care and the foster carer de-registered.
- Acted inappropriately, in a sexualised manner, towards a child who was no longer in their care; placements subsequently suspended and the foster carer de-registered.
- Struck a child; incident viewed, following investigation, as a lack of appropriate control in dealing with consistent verbal abuse and guidance issued. The placement continued satisfactorily. No further placements made.

- b) What is the basis of that assessment?

Review of all files relating to foster carers and the children in their care.

- c) How many complaints have been made in relation to alleged abuse of children in foster care?

Ten (against seven individuals)

- d) Against how many foster carers have the complaints referred to at (c) above been made?

Six (nine complaints)

- e) How many foster carers have been convicted of, or admitted to, abuse of children?

None

- f) How many foster carers have been found by the local authority to have abused children?

Two

- g) Against how many family members of foster carers have complaints been made in relation to alleged abuse of children?

One

- h) How many family members of foster carers have been convicted of, or admitted to abuse of children?

None

- i) How many family members of foster carers have been found by the local authority to have abused children?

None

- 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?

None

- k) How many other children placed in foster care in the same placement have been convicted of, or admitted to abuse of children?

None

- l) How many other children placed in foster care in the same placement have been found by the local authority to have abused children?

None

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?

2000, 2002, 2004 (twice), 2005 and 2012. These were all made at the time of the alleged abuse or close to it. There were further allegations made in 2012 & 2016 relating to separate alleged incidents which took place ten years previously.

- b) To what extent were complaints and disclosures made while the abuse or alleged abuse was on-going or recent?

Eight of the complaints and disclosures were made while alleged abuse was ongoing or recent. Two were made approximately 10 years after the alleged abuse took place.

- c) To what extent were/are complaints made many years after the alleged abuse i.e. about non-recent abuse?

In two cases the allegation of abuse was made approximately ten years after the alleged abuse took place.

- d) Are there any patterns of note in terms of the timing/disclosure of abuse and/or alleged abuse?

No patterns are apparent.

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?

There have been no specific inspections regarding abuse or indeed alleged abuse of children in foster care in the Western Isles. All general inspections are available.

For each such external inspection please answer the following:

- b) Who conducted the inspection?
- c) Why was the inspection conducted?
- d) When was the inspection conducted?
- e) What was the outcome of the inspection in respect of any issues relating to abuse or alleged abuse of children in foster care?
- f) What was the local authority's response to the inspection and its outcome?
- g) Were recommendations made following the inspection?
- h) If so, what were the recommendations and were they implemented?
- i) If recommendations were not implemented, why not?

5.5 External Investigations

- a) What external investigations have been conducted relating to children in foster care which have considered issues relating to abuse and/or alleged abuse of children?

None.

For each such external investigation please answer the following:

- b) Who conducted the investigation?
- c) Why was the investigation conducted?
- d) When was the investigation conducted?

- e) What was the outcome of the investigation in respect of any issues relating to abuse or alleged abuse of children in foster care?
- f) What was the local authority's response to the investigation and its outcome?
- g) Were recommendations made following the investigation?
- h) If so, what were the recommendations and were they implemented?
- i) If recommendations were not implemented, why not?

Not applicable.

5.6 Response to External Inspections/Investigations

- a) What was the local authority's procedure/process for dealing with external inspections and/or investigations relating to abuse, and/or alleged abuse of children in foster care?

Apart from the police enquiries into the allegations set out earlier there have been no external inspections or investigations into the foster care service with a focus on abuse or alleged abuse.

The allegations which were made were dealt with through the child protection processes in force at the time they were made. None resulted in conviction of any of the carers involved.

- b) What was the local authority's procedure/process for responding to the outcomes of such external inspections and/or investigations?

Apart from the police involvement in the allegations set out earlier, there have been no external inspections or investigations into the foster care service with a focus on abuse or alleged abuse.

Any allegations which were made were dealt with through the child protection processes in force at the time they were made and none resulted in conviction of any of the carers involved.

In relation to individual investigations, the review of the available files demonstrated that in some cases and where deemed appropriate, registration of the carer(s) was suspended pending the outcome of the investigation and referral was made to the Fostering Panel for consideration regarding lifting of suspension or de-registration as deemed appropriate in each individual circumstance

- c) What was the local authority's procedure/process for implementing recommendations which followed from such external inspections and/or investigations?

Apart from the police involvement in the allegations set out earlier, there have been no external inspections or investigations into the foster care service with a focus on abuse or alleged abuse.

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?

It is difficult to draw a firm conclusion whether or not any of the alleged abuse had a direct impact on the lives of the young people who made the accusations particularly as the young people concerned were displaying problematic behaviour prior to the point where they made an allegation. Nevertheless in two cases of allegation the young people are known to have gone on to have chaotic adult lives. One became involved in serious offending and the other in drug abuse. One young woman who made an allegation is now dead.

- b) Where does the local authority's knowledge/assessment of that impact come from?

A review of all foster carers' files and of the files of the children in their care.

- c) What is known about the impact of abuse on the families of those children in foster care who were abused, or alleged to have been abused?

Nothing is known of this.

- d) Where does the local authority's knowledge/assessment of that impact come from?

A review of all foster carers' files and of the files of the children in their care.

5.8 Known Abusers and Alleged Abusers

- a) Does the local authority know of specific abusers, or alleged abusers, of children in foster care?

The local authority is aware of those people against whom allegations of abuse were made and who after investigation were not convicted of any crime. In one instance and on the balance of probabilities the local authority considered it likely that the foster carer had struck the child, removed the child and de-registered the foster carer.

- b) If so, what are the names of the abusers, and/or alleged abusers?

- Case 1 EDT [REDACTED]
- Case 2 [REDACTED]
- Case 3 EDW [REDACTED]
- Case 4 EUT [REDACTED]
- Case 5 EDY [REDACTED]
- Case 6 EDZ [REDACTED]
- Case 7 EEM [REDACTED]

- 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

- **CASE 1 - alleged to have occurred on more than one occasion during placement (September 05 – March 06).**
- **CASE 2 – a single incident alleged to have occurred in September 2012**
- **CASE 3 – the allegation was made in 2016, ten years after the young person to whom they related had left the placement. They referred to incidents alleged to have taken place some ten years or more previously. The young person was in the placement between 2001 and 2006.**
- **CASE 4 – Allegation 1 - alleged to have occurred during 2004.
Allegation 2. -- A further allegation was made in 2012 approximately ten years after the event. It is not clear when the abuse was alleged to have taken place.**
- **CASE 5 – Allegation 1 – alleged to have occurred on more than one occasion during placement (Jan –Oct 2003).
Allegation 2 – alleged to have occurred on more than one occasion during period of placement (Sept 2002-Jan 2004).**
- **CASE 6 – a single incident alleged to have happened in February 2004.**
- **CASE 7 – Allegation 1 – a single incident alleged to have happened in February 2000.
Allegation 2 – a single incident alleged to have happened in January 2003.**

- 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

- **CASE 1 Foster Carer**
- **CASE 2 Foster Carer**
- **CASE 3 Son of Foster Carer**
- **CASE 4 Foster Carer (two separate complaints)**
- **CASE 5 Foster Carer (two separate complaints)**
- **CASE 6 Foster Carer**
- **CASE 7 Foster Carer (two separate complaints)**

- the knowledge sought or received about them by the local authority at the point of approval/registration of foster carers and thereafter

In all cases foster carers were fully assessed following BAAF procedures. References were sought. All information was presented to and discussed with member of the Fostering Panel at the point of potential foster carer registration being sought.

- 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,

No information was sought by or provided to third parties or future employers after the allegation of abuse was made.

- d) Were known abusers, or alleged abusers, of children permitted to continue as foster carers?

Known abusers of children were not permitted to continue as foster carers. In some cases, after risk assessment and due consideration having been given to the nature of the allegation, the circumstances in which the abuse was alleged to have occurred, the history of the carers and of the specific placement, the age and best interest of the child or young person, and where, ultimately, it was considered safe and appropriate, alleged abusers were permitted to continue as foster carers. In other cases, having taken account of all of the above factors, the registration of alleged abusers as foster carers was suspended pending the outcome of allegations of abuse. On one occasion a decision was made to de-register a carer due to the professional judgement that on the balance of probabilities the foster carer had struck the child.

e) If so, why was this considered to be appropriate?

In short whenever an allegation is made the needs of the child were and remain paramount. Allegations being made are a complex dynamic and there requires to be cognisance of the potential disruption to long term nurturing attachments that immediate removal at the point of allegation could herald and this be balanced against immediate risk. It was and remains vital we do not simply process children through a child protection system but rather consider their multifaceted holistic needs.

In some cases, after risk assessment and due consideration having been given to the nature of the allegation, the circumstances in which the abuse was alleged to have occurred, the history of the carers and of the specific placement, the age, views of and best interest of the child or young person, and where, ultimately, it was considered safe and appropriate, alleged abusers were permitted to continue as foster carers. In cases in which foster carer registration had been suspended pending the outcome of an investigation and where, in due course, it seemed appropriate for the suspension to be lifted, reports were submitted to the Fostering Panel for consideration and ultimate decision-making.

f) If so, what process of monitoring/supervision followed?

Close and regular monitoring of the placement took place and, in some cases, specific support and training was provided to foster carers in, for example, dealing with challenging behaviour, managing conflict and setting appropriate boundaries for children and young people in their care. Children and young people in placement would also be met with on a regular basis on their own and in more recent years, children and young people in placement would be supported also by a support worker from Who Cares? Scotland.

5.9 Specific Complaints

It is not possible to definitively answer this question for the majority of the period defined as the past.

a. How many specific complaints of abuse of children in foster care have been made to the local authority?

Nine

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?

CASE 1

- b. Young person who had been in placement [REDACTED] and her mother.
- c. March 2006.
- d. Female foster carer, EDT [REDACTED]
- e. It was alleged that the foster carer had supplied young person with cannabis and allowed smoking of cannabis in foster carer's home.
- f. It was alleged to have occurred on more than one occasion during placement ([REDACTED] 05 – [REDACTED] 06).
- g. Referral to the police. The decision was taken not to proceed through the child protection process as the young person was no longer in placement.
- h. As g. above.
- i. Following police investigation, criminal charges were made against the foster carer and the case was referred to the PF. The case proceeded to court. The foster carer pleaded not guilty and that plea was accepted by the prosecution on the basis that the witness statements were considered unreliable as they contained inconsistencies.
Following the conclusion of the court proceedings a formal review was undertaken by the Social Work Department and a report submitted to the Fostering Panel for consideration. It should be noted, however, that this was more in response to a change in the carer's home circumstances as her adult daughter with special needs returned to live in the family home and required significant levels of support. This also impacted on the suitability of the appropriate space within the home. The outcome of the Panel was that the carer was re-registered as a foster carer but with the conditions that she would provide only outreach support to young people assessed as requiring that and/or very short-term emergency accommodation.
- j. The local authority continued to have extensive contact with the young person. Appropriate support was also provided to the foster carer.
- k. Continued support was provided to the young person in dealing with a number of long-term issues.
- l Not applicable.
- m. Yes, as g. above. The complaint was referred to the police who undertook a criminal investigation.
- n. Not applicable.

CASE 2

- b. A member of the public who witnessed the alleged incident.
- c. September 2012.
- d. Female foster carer, EDV [REDACTED]
- e. A member of the public is alleged to have seen the foster carer handling the child ([REDACTED]) roughly and visibly causing her distress by holding her arm up her back.
- f. This appears to have been a single incident in September 2012.
- g. Based on the nature of the allegation and the details provided by the witness, a risk assessment was conducted which resulted in the child being removed immediately from placement and accommodated elsewhere. Referral was made to the police who led on the investigation.

- h. See g. above. Referral to police with agreement for police to lead on investigation was based on the allegation of the witness having referred to a criminal act of assault.
- i. The foster carer was charged with assault and a report sent to the PF. The case did not proceed to court. The child did not return to the placement. The foster carer's registration, together with her husband's, was suspended pending the outcome of the inquiry. A report was presented to the Fostering Panel recommending that the foster carers be de-registered. This was subsequently agreed and the foster carers were de-registered in October 2012.
- j. Yes. See g., h., and i. above.
- k. See g., h. and i. above.
- l. Not applicable.
- m. Yes. See g. above.
- n. Not applicable.

Case 2 is being treated as the local authority judging on the balance of probabilities the carer did strike the child. Appropriate action was taken in suspending and then de-registering.

CASE 3

- b. The complaint was made anonymously.
- c. 2016 – The allegations were made some ten years after the young person [REDACTED] had left the placement. They referred to incidents alleged to have taken place some ten years or more previously. [REDACTED] was in the placement between 2001 and 2006.
- d. Member of foster carers' household. The allegations were made against the foster carers' son, [REDACTED]
- e. Sexual assault.
- f. The young person who was alleged to have been abused was in the placement between 2001 and 2006. It is unknown when, during this period, the alleged abuse took place.
- g. The foster carers were no longer foster carers. The allegations were referred to the police who proceeded to investigate.
- h. The local authority worked in partnership with the police who led on the investigation.
- i. The matter did not proceed beyond the investigation stage as there was no evidence to substantiate the allegations.
- j. No.
- k. Not applicable. See g., h. and j. above.
- l. See g. and h. above. There was no response as there was insufficient evidence to support the complaint.
- m. Yes.
- n. Not applicable.

CASE 4

Allegation 1.

- b. Young person who had previously been in placement ([REDACTED]).
- c. October 2004.
- d. Male foster carer, EUT [REDACTED]
- e. Sexual Assault; young person alleged that he had been cuddled and touched inappropriately by foster carer.
- f. Various alleged incidents during 2004.
- g. The complaint was jointly investigated with police through Child Protection procedures. The young person who had made the allegations was no longer in the placement. The foster carer's registration was suspended pending the outcome of the investigation.
- h. As above.
- i. Following the police investigation, the foster carer was charged and a report sent to the PF. The case did not subsequently proceed to court and the charges against the foster carer were dropped. It was

noted that four other children who were accommodated with the foster carer reported to the investigation that nothing of this kind had happened.

- j. The foster carer was referred to the Foster & Adoption panel for further consideration. A decision was made to continue the registration.
- k. Following investigation and consideration by the PF it was decided on the balance of probabilities no abuse took place.
- l. See k above.
- m. Yes.
- n. Not applicable.

Allegation 2.

- b. Young person who had been in placement ([REDACTED]).
- c. May 2012
- d. Male foster carer, EUT [REDACTED], who was deceased by the time this allegation was made.
- e. Grooming, sexual assault and rape.
- f. The complainant was not clear however it would have been the early 2000s.
- g. The complainant was an adult at the point of the allegation being made. Indeed his dealing with social work was as the father of children deemed to be vulnerable. He was referred to the police and advocacy services. There was mental health support in place.
- h. The complainant was appropriately referred to the police, but he did not take up this opportunity.
- i. As h. above
- k. The local authority and other services were already offering this individual significant help through offers of mental health service and advocacy. The support at this stage was pastoral, however he did not engage.
- l. Lack of engagement with further investigation or supports.
- m. No.
- n. Due the complainant being an adult the information could not be passed to the police without his express permission. There was no such permission.

CASE 5

Allegation 1

- b. Young person who had been in placement ([REDACTED]).
- c. October 2003.
- d. Male foster carer, EDY [REDACTED].
- e. Kissing and hugging [REDACTED] whilst under the influence of alcohol and whilst female carer out of the home.
- f. Not specifically recorded but on several occasions during placement ([REDACTED] 2003).
- g. The review of the files indicates what was described as an 'informal route' being taken - discussing with the child the complaints she had made. There was a decision taken not to proceed through child protection processes. The child was no longer in placement by this stage. The review of the file does not indicate the police being involved at any point. The rationale for this 'informal' route was the long term nature of the relationship with the foster carer and that this was the first indication of any difficulty at all.
- h. As g. above.
- i. As g. above.
- j. The local authority had extensive contact with the young person.
- k. The young person was assisted in dealing with a number of issues.
- l. Not applicable.
- m. No, not as far as can be ascertained from records.
- n. Not known.

Allegation 2

- b. Young person who had been in placement ([REDACTED]).

- c. January 2004.
- d. Male foster carer, EDY
- e. 'Sexual touching' and indecent exposure whilst under the influence of alcohol and whilst female carer out of the home.
- f. Not specifically recorded but on several occasions during period of placement (2002-2004).
- g. The complaint was dealt with through the local authority's Child Protection procedures.
- h. A joint Police and Social work interview was conducted with the young person. The placement had, prior to the complaint, broken down and therefore the young person was accommodated elsewhere.
- i. The male foster carer was subsequently interviewed and charged with lewd and libidinous conduct. In February 2006 the case was abandoned by the Crown. The local authority judges on the balance of probabilities that the carer probably did act in an inappropriate manner towards the child. It is recognised that it was impossible to conclude exactly the nature of that behaviour. Appropriate action was taken in suspending and then de-registering.
- j. Yes, as above.
- k. All other placements with those carers were immediately suspended at the point of complaint. The young person was supported through the legal process and had extensive social work and specialist support thereafter. The carers were provided with support in dealing with the investigative process and their suspension from foster care. No more placements were made and the carers were subsequently de-registered. The de-registration does not specifically and clearly set out the reasons for the de-registration. It reads like a mutually agreed decision.
- l. Not applicable.
- m. Yes, see g & h above.
- n. Not applicable.

CASE 6

- b. Young person in placement ().
- c. February 2004.
- d. Male foster carer, EDZ
- e. It is alleged that during an argument the male foster carer pushed the young person causing her to fall back and hit her head against furniture.
- f. It was alleged that this had occurred on one occasion.
- g. Complaint dealt with through the local authority's Child Protection procedures.
- h. The male foster carer was interviewed by the police but no charges were brought against carer. There appears to have been a consensus that the act was not abusive or an attempt to hurt.
- i. It was accepted by the carer that the incident had occurred and was viewed as a disagreement between the carer and the young person where the carer had lost control.
- j. Yes.
- k. The young person was accommodated in another placement to give a period of respite and whilst the matter was being investigated and assessed. During the course of this respite period the young person requested she return to the placement afterwards.
- l. See g, h, i, k above.
- m. Yes.
- n. Not applicable.

CASE 7

Allegation 1

- b. Young person in placement ().
- c. February 2000.
- d. Male foster carer, EEM
- e. The young person alleged that he had been hit on the side of his head causing his ear to bleed.
- f. When this was reported it was a single incident. It was reported the following day by young person.

- g. Social work investigated the complaint and interviewed the child and the foster carers and also spoke to school staff to whom the child had initially spoken. The carer admitted that he had slapped the child but denied that this had caused bleeding to his ear. It is not clear from a review of the files why this was not referred to the police.
- h. See g. above. The approach was based on knowledge of the difficulties that this placement presented and the carer's difficulty at times in dealing with challenging behaviour.
- i. The incident was seen as the carer not having exercised appropriate control in dealing with verbal abuse from the young person and therefore both carers were given advice in the use of appropriate disciplinary measures.
- j. Yes.
- k. See i. above. The young person continued in placement and continued to receive professional support in dealing with behavioural issues.
- l. There was a response.
- m. No.
- n. Not recorded.

Allegation 2

- b. Young person ([REDACTED]) who had returned from specialist placement post 16 returned to this household on a temporary basis.
- c. January 2003.
- d. Male foster carer, EEM [REDACTED]
- e. It was alleged that carer had 'caught' young person by the neck.
- f. This was a single incident with this young person however followed on from an allegation three years earlier of a similar nature.
- g. Foster carers and young person were interviewed by social work.
- h. As above.
- i. No further action was taken. The incident had occurred during a party at the carers' home where a number of young people had consumed alcohol and the carer had intervened in a physical altercation between the young person and another individual. As such there appeared to be no intent beyond avoiding the altercation escalating. It was alleged that the male carer had also been drinking but this was denied.
- j. No. There continued to be ongoing contact and support provided to young person. The carers had no further placements and were de-registered in 2003. This de-registration was not linked to this incident.
- k. See j. above.
- l. Not applicable.
- m. No.
- n. It was not viewed as an abusive incident.

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?

As far as records show, none.

For each such civil action, please answer the following:

- b) Who brought the action?
- c) When was the action brought?

- d) Against whom was the action brought?
- e) What was the nature of the abuse, or alleged abuse, to which the action related?
- f) What were the names of the persons said to have, or alleged to have, committed abuse?
- g) When/over what period was the abuse said, or alleged, to have taken place?
- h) How did the action progress?
- i) What was the outcome?
- j) Was the action settled on a conditional basis of confidentiality?
- k) Who was/were the local authority's legal representative(s) in relation to the civil action?
- l) Did the local authority carry insurance for meeting civil claims at the time the action was live?
- 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?

No.

- b) If so, please provide details if known.

Not applicable.

5.12 Police

It is not possible to definitively answer this question for the majority of the period defined as the past.

- a) How many complaints of abuse of children in foster care have been made to the police?

Six.

In relation to each known complaint to the police, please answer the following questions:

- b) Who was the alleged abuser or abuser?

The details of all the known cases are set out in Section 5.9.

The police were involved in all complaints bar: the second allegation in Case 4. (The, by then adult, complainer was advised to report the matter to the police but did not. The second allegation in Case 5. Both allegations in Case 7 (the second of which was not viewed as being of an abusive nature).

- c) Did the police conduct an investigation in relation to the complaint?

In all cases where there was a report to the police they did investigate.

d) If so, who conducted the investigation and when?

All investigations were carried out close to the point an allegation was made. See 5.9

Case 1 – police investigation

Case 2 – records do not make it entirely clear that this was a joint investigation between police and social work, but our inference is that it was a joint investigation

Case 3 – police investigation

Case 4 – (first allegation only) joint police / social work

Case 5 – (second allegation only) joint police / social work

Case 6 – joint police / social work

e) What was the outcome of the police investigation?

See 5.9

Case 1 – charged by the police, prosecuted by the PF – not guilty plea accepted by the PF

Case 2 – charged by the police – the PF took no proceedings

Case 3 – the police found insufficient evidence to charge

Case 4 – (first allegation) the police found insufficient evidence to charge.

Case 5 (second allegation) – charged by the police – it is not clear from our records whether the PF took no proceedings or raised a complaint and then abandoned it

Case 6 – the police found insufficient evidence to charge

f) What was the organisation/establishment's response?

Case 1 – Continued support was provided to the young person in dealing with a number of long-term issues. Appropriate support was also provided to the foster carer.

Case 2 – A risk assessment was conducted which resulted in the child being removed immediately from placement and accommodated elsewhere. The foster carer's registration, together with her husband's, was suspended pending the outcome of the inquiry, a report was presented to the Fostering Panel recommending that the foster carers be de-registered, and the foster carers were de-registered in October 2012.

Case 3 – Following insufficient evidence being found by police, no response was required.

Case 4 – (first allegation) the foster carer was referred to the Fostering and Adoption panel for further consideration. A decision was made to continue the registration.

Case 5 (second allegation) – All other placements with those carers were immediately suspended at the point of complaint. The young person was supported through the legal process and had extensive social work and specialist support thereafter. The carers were provided with support in dealing with the investigative process and also their suspension from foster care. No more placements were made with those carers and the carers were subsequently de-registered. The de-registration does not specifically and clearly set out the reasons for the de-registration. It reads like a mutually agreed decision.

Case 6 – The young person was accommodated in another placement to give a period of respite and whilst the matter was being investigated and assessed. During the course of this respite period the young person requested she return to the placement afterwards. Given the consensus that the act was not abusive or an attempt to hurt, there was no further response.

5.13 Crown

a) To what extent has the Crown raised proceedings in respect of allegations of abuse of children in foster care?

There is one instance where the Crown raised proceedings against a foster carer. See 5.9 (Case 1).

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?

EDT

- c) What was the nature of the charges?

Supply of cannabis.

- d) What was the outcome of the proceedings, including disposal/sentence if there was a conviction?

A not guilty plea was accepted by the Crown.

- e) What was the local authority's response to the proceedings and outcome?

A formal review was undertaken and a report submitted to the Fostering Panel for consideration. It should be noted, however, that this was more in response to a change in the carer's home circumstances given that her adult daughter with special needs had returned to live in the family home and required a significant level of support. This also impacted on the suitability of the appropriate space within the home.

The outcome of the Panel was that the carer was de-registered but continued to offer outreach support to young people assessed as in need of this.