

| The Knowledge and Definition of
Child Abuse within Scottish Office
Departments, 1945-74

Report for the Scottish Child Abuse Inquiry

Ian Levitt

**Emeritus Professor of Social Policy, University of Central
Lancashire**

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Project team

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List of Acronyms

Cd./Cmd./Cmnd. – Command Papers

DHS – Department of Health for Scotland

EIS – Educational Institute of Scotland

N.N.E.B. – National Nursery Examination Board

NAS – National Archives of Scotland

NHS – National Health System

NRS – National Records of Scotland

SACCC – Scottish Advisory Council on Child Care

SACTRO – Scottish Advisory Council on the Treatment and Rehabilitation of Offenders

SED – Scottish Education Department

SHD – Scottish Home Department

SHHD – Scottish Home and Health Department

SRO – Scottish Record Office

SWSG – Social Work Services Group

TNA – The National Archives

Scottish Office Ministers and Junior Ministers – 1945-74

Secretaries of State for Scotland

Thomas Johnston	February 1941 to May 1945
Joseph Westwood	August 1945 to October 1947
Arthur Woodburn	October 1947 to February 1950
Hector McNeil	February 1950 to October 1951
James Stuart	October 1951 to January 1957
Jack Maclay	January 1957 to July 1962
Michael Noble	July 1962 to October 1964
Willie Ross	October 1964 to June 1970 March 1974 to April 1976
Gordon Campbell	June 1970 to March 1974

Joint Parliamentary Under-Secretaries of State with responsibility for the child care brief

Tom Fraser	August 1945 to October 1951 – responsible for the child care brief from 1945 to March 1950.
Margaret (Peggy) Herbison	March 1950 to October 1951
James Henderson-Stewart	February 1952 to January 1957
Niall Macpherson	January 1957 to October 1960
Richard Brooman-White	October 1960 to December 1962
Lady Tweedsmuir	December 1962 to October 1964
Judith Hart	October 1964 to April 1966
Bruce Millan	April 1966 to June 1970
Frank McElhone	September 1975 to May 1979

Preface

Ian Levitt, FRSA, is Emeritus Professor of Social Policy at the University of Central Lancashire, and Visiting Professor at the University of the West of Scotland. He was Chair of the Scottish Records Association, 2000-2006, and has written widely on 19th and 20th century Scottish social and economic policy. Amongst his publications are:

The State of the Scottish Working Class in 1843, (Edinburgh: Scottish Academic Press, 1979) (with T.C. Smout).

Poverty and Welfare in Scotland, 1890-1948, (Edinburgh: Edinburgh University Press, 1988).

(ed.) *Government and Social Conditions in Scotland, 1845-1919*, (Edinburgh: Scottish History Society, 1988).

(ed.) *The Scottish Office, 1919-59*, (Edinburgh: Scottish History Society, 1995).

"The Origins of the Scottish Development Department, 1943-62", *Scottish Affairs* 14, (First Series) No.1 (1996), pp.42-63.

"The Creation of the Highlands and Islands Development Board, 1935-65", *Northern Scotland* 19, (First Series) No.1 (1999), pp.85-105.

"The Scottish Secretary, the Scottish Grant Equivalent and the Treasury, 1885-1970", *Scottish Affairs* 28, (First Series) No.1 (1999), pp.93-116.

"Scottish Papers Submitted to the Cabinet, 1917-45: a Guide to Records held at the Public Record Office and the National Archives of Scotland", *Scottish Economic and Social History* 19, No.1 (1999), pp.18-54.

"Scottish Papers Submitted to the Cabinet, 1945-66: a Guide to Records held at the Public Record Office and the National Archives of Scotland", *Scottish Economic and Social History*, 20, No.1 (2000), pp.58-125.

"Scottish Papers Submitted to the Cabinet, 1966-70: a Guide to Records held at the Public Record Office (with Addendum, 1964-66)", *Journal of Scottish Historical Studies* 22, No.1 (2008), pp.1-22.

"The British Government and the Evacuation of St Kilda, 1890-1930", in *The Decline and Fall of St. Kilda: Proceedings of an International Conference Organised by the Islands Book Trust in August 2005 to Mark the 75th Anniversary of the Evacuation of St Kilda*, (ed) Islands Book Trust (Port Ness: Island Book Trust, 2006), pp.51-62.

“‘Boy’ Clerks and Scottish Health Administration, 1867-1956” in *Medicine, Law and Public Policy in Scotland: C. 1850-1990*, (eds) Mark Freeman, Eleanor Gordon, and Krista Maglen (Edinburgh: Edinburgh UP, 2011), pp.161-179.

(ed.) *Treasury Control and Public Expenditure in Scotland, 1885-1979 (Records of Social and Economic History)*, (Oxford: Oxford University Press/British Academy, 2014).

(with C. Collins) “The ‘Modernization’ of Scotland and its Impact on Glasgow, 1955-79: ‘Unwanted Side Effects’ and Vulnerabilities”, *Scottish Affairs*, 25, No. 3 (2016), pp. 294-316.

(with C. Collins) “The Policy Discourse that Shaped the ‘Transformation’ of Glasgow in the late 20th Century: ‘Overspill’, ‘Redeployment’, and the ‘Culture of Enterprise’”, in *Transforming Glasgow: Beyond the Post-Industrial City*, (eds) Keith Kintrae and Rebecca Madgin (Bristol: Policy Press, 2019), pp.21-38.

Whilst acknowledging the support given by staff within the Scottish Child Abuse Inquiry, the report here is his own work.

Project Specification

The project specification included the following topics to review:

- A. Child care: administrative context
 - Location of child care within Scottish Office departmental structure, and the prioritisation given to child care generally within the brief
 - The formalisation of regulations dealing with approved schools, children's homes, and foster care, including approval by ministers
 - Regulations/guidance on the recruitment of suitable staff for institutions, and foster parents
 - Secretary of State's approval of the annual approved school inspection programme
 - The extent of ministerial visits to approved schools and children's homes
 - Expected dietary standards, and physical accommodation within children's institutions
 - Reviews of the qualification of staff providing care, and inducements for improvement
 - The 'bed' allocation by Scottish Education Department (SED) and subsequently Social Work Service Group (SWSG) to approved schools and role of the approved school inspector

- B. Inspections: policy implementation
 - Flow of information from routine inspections of approved schools, children's homes and foster homes to officials and ministers, with decisions on where abuse was suspected or revealed
 - Flow of information or requests for information from ministers and officials to inspectors on approved schools, children's homes and foster homes for further inquiries, with decisions on where abuse was suspected or revealed

- C. Review
 - Review of the definition and knowledge of child abuse

Section 1: Introduction

This report was commissioned by the Scottish Child Abuse Inquiry to establish the extent of knowledge and definition of abuse within the Scottish departments for the period 1945-74. The research was primarily based on Government papers of the period retained at the National Records of Scotland (NRS). The report is divided into six sections, as well as a review of the range of papers consulted. The second part of this introduction deals with the limitations imposed on the research by the retention/preservation of departmental files at the NRS, and its predecessors, the National Archives of Scotland (NAS), and the Scottish Record Office (SRO). The third part of the introduction deals with the methodology adopted to review the evidence supplied by the files.

Section 2 of the report covers the Scottish Office and its oversight of child care provision. It includes the allocation of duties to the junior minister—the Joint Parliamentary Under-Secretary of State—whose brief included child care, and the allocation of responsibility between the different Scottish departments. Section 3a covers the Child Care and Approved School Regulations in 1947, and notes their origin and the implications for official and ministerial consideration of the standard used to measure satisfactory provision. Section 3b deals with the discussions that led to the Regulations for Children’s Homes and Boarded-Out Children, 1959, and notes the reasons for the delay in their publications, as well as the ministerial decision not to accept the draft regulations submitted by officials. Section 3c covers the discussion that led to the Approved Schools (Scotland) Rules, 1961, again noting the reasons for the delay in their publications, as well as the ministerial decision not to accept the draft regulations submitted by officials. Section 4 details the visits by Scottish Office ministers and officials to children’s homes and approved schools, principally to indicate their personal knowledge of the care provided. Section 5 reflects on official and ministerial knowledge and consideration of unsatisfactory care, neglect and abuse for the period under review and the extent to which a holistic view of abuse existed. Section 6 provides some concluding remarks.

It should be noted that certain topics for consideration within the research were not fully explored, largely because the retained NRS files did not provide the detail necessary. For instance, it is known the Scottish Education Department (SED) and later the Social Work Service Group (SWSG) were closely associated with the allocation of pupils to Approved/List D schools, but as the files on individual children have not been retained, it was not possible to explore the extent to which such children who had been subject to abuse were transferred to another institution or

discharged on licence.¹ Equally, it is known the Secretary of State agreed the annual schedule of visits by H.M. Inspector of Schools to Approved/List D schools, but again examples of the schedule have not been retained.

As any research of official documents is limited in terms of what papers have been retained, and there are some aspects of the work of officials and ministers which covered its oversight of children in care that cannot be traced. Beyond that the approach taken has been to seek to answer the above questions through a combination of inspection reports from

- the H.M. Inspector of Schools attached to the SED,
- the Child Care Inspectors attached to the Scottish Home Department (SHD), 1934-62,
- the same Child Care Inspectors attached to the Scottish Home and Health Department (SHHD), 1962-67,
- the medical officers attached to the Department of Health for Scotland, and after 1962 the SHHD,
- the Social Work Advisers attached to the Social Work Services Group from 1968, and
- the minutes of officials within the SED, SHD (until 1960), the SHHD (from 1962) and the SWSG (from 1967) who covered child care, and the decisions of the Joint Parliamentary Under-Secretary of State, and Secretary of State.

In that way the subject of the research can be better understood and appreciated, particularly in relation to the knowledge of the actual child abuse, the policy and administrative response towards it, and the extent to which a holistic view of child abuse developed during the period under review.

It should be noted that the Child Care Inspectors formed part of the group of “technical” officials managed by the Chief Inspector, Child Care and Probation, until March 1968 when they were absorbed into the group headed by the newly appointed Chief Social Work Adviser.² Although the Child Care Inspectors worked

¹ NRS ED15/442/1, minute, 23 October 1970, paras 1-3 & 7, at SGV-000000060.

² Footnotes will provide information on the professional background of the child care inspectors and medical officers where this information is available from public sources and the files. In 1961 the conditions for the qualification and experience of the Child Care and Probation Inspectorate were stated as, “Candidates should normally be university graduates or should hold a diploma or certificate in social science or social studies. They must hold a recognised qualification for, or have had recognised training in, social or education work, and must have wide experience of social conditions and an understanding of delinquency problems, of the problems of children and young persons and of remedial measures. Experience in training case-workers and in the supervision of case-work staff will be an advantage”, see NRS ED20/206, minute, J. M. Fearn, Assistant Secretary, SHD, 14 November 1961, at SGV.001.009.0344. A formal statement of qualifications and experience before 1961 has not been located but in 1955 one

closely with and reported to the SED, between 1960 and 1968 their “pay and rations” came from the SHD, then the SHHD. From March 1968 they were re-titled social work advisers and their ‘pay and rations’ came from the SED.

Note on the Retained Government Files at the NRS

Under the Regulations of 10 December 1940, made by the Lord Justice General and Lord President and the Secretary of State for Scotland under section 12 of the Public Records (Scotland) Act 1937, the SHD and SED were authorised to prepare a list of records that were “not considered of sufficient public value to justify their preservation by the Keeper of Registers and Records of Scotland.”³ Excluded from the Schedules were records connected with the preparation and passage of Bills and preparation of Regulations, Orders, and Rules and Byelaws affecting the work of the Departments. Similarly, records relating to major questions of policy or principle were to be preserved. Records to be disposed of under the Schedules were to

first be examined by a competent officer who will withdraw for preservation any documents containing matter likely to be of value as a precedent or to be of continuing interest or importance. Papers of like nature to those covered by the Schedule will be deemed to be included notwithstanding any technical discrepancies in description. Except where otherwise specified, the period of preservation will be calculated from the date of the last document or entry in the file or volume. Specimens of certain classes of records in the Schedule may be preserved where this course appears desirable.⁴

The SHD Schedule stated that files relating to “Children and Young Persons services, - statistics, etc.” were to be retained for 20 years before destruction. The SED Schedule excluded the destruction of Inspectors’ reports on schools, but files relating to “approved schools – statistical forms and licence registers”, were to be retained for ten years before destruction. The SHD Schedule included the destruction of “Inquiries” concerning “Boarded-out Children” after five years.⁵ Thus files that related to “services” provided under the Children and Young Persons (Scotland) Acts, 1932 and 1937, were subject to destruction, as were certain files concerning approved

appointee held an Edinburgh University Certificate in Social Study, had attended a Home Office Training Course for Probation Officers and later a Mental Health Course at London School of Economics. Prior to appointment the Inspector had worked professionally first as a probation officer and then as a psychiatric social worker, see statement attached to letter, A. J. Betts, Principal, SHD, 7 May 1955.

³ NRS SOE4/3, SED Schedule, dated 1949, at SGV-000007231, p.81. See also NRS ED39/173, Intelligence Memo 2/1989—Public Registers and Records (Scotland) Act 1948 Registers and Records (Scotland) Regulations 1940 No. 2107 S 100—*Official Documents for Transmission to the Keeper of the Records or for the disposal or destruction in the Department*, 6 May 1949, at SGV-000061825, p.135; Department of Health for Scotland, First Schedule, at SGV-000061825, pp.136-140.

⁴ NRS SOE4/3, SED Schedule, dated 1949, at SGV-000007231, p.83.

⁵ NRS ED39/173, Department of Health for Scotland, First Schedule, at SGV-000061825, p.137.

schools. Files relating to the boarding out of children were subject to destruction after five years.

The SHD branches that covered child care were transferred to the SED in 1960. At the formation of the SWSG in March 1967 (see [Section 2](#) for further details), these records, and their corresponding destruction policy, were inherited by that group.

Methodology

Given the post-war destruction of papers as a result of the Schedules mentioned above, the research undertaken here has ultimately been limited by the retention policy that the order instituted. Generally, papers that cover prospective legislation and issues that were being considered in the UK cabinet have been retained. Equally papers relating to redistribution of departmental functions have been retained, as have papers where matters of high policy required a ministerial decision, particularly if they required a decision by the Secretary of State for Scotland. Some papers, which might be described as papers dealing with the ordinary progression of departmental business, have been retained. It is not clear, however, whether this is the result of a decision to provide a sample of papers in distinct areas of policy (as permitted in the Schedules noted above), or whether the issues raised were believed to contain matters of precedent for which later departmental discussion might require a review of policy. It would appear that changes in retention policy have meant an increase in the number of files on the project at hand from the late 1950s.

Additionally, the research consulted Parliamentary Papers, Hansard, and contemporary newspaper reports on approved schools, children's homes, and on other items of relevant interest.

The researcher approached the topic of the research by undertaking two methods to locate the retained files at the NRS. The first method involved using the NRS's online catalogue to search by word or title. Thus, a search using the title "List D School" produced a significant number of files, as did "child care". The second method used the departmental cipher, the original code created by the Department's registry to establish a series of files on a given topic, again using the NRS's online catalogue. For instance, the cipher VH or H/VH denoted the code used to classify the registration of voluntary homes and departmental correspondence in regard to the homes after the implementation of the Children & Young Persons (Scotland) Act, 1932. The same applies to Approved/List D schools, where the cipher CA was one of the ciphers used. Papers on general issues of child care were prefixed by the initial K, followed by two other initials. The "K" series began with official consideration of the Kilbrandon report into the revision of child care law in 1964.

For this report, the researcher consulted the retained files that covered the Approved/List D schools; children's homes (voluntary and local authority); remand homes; deaths of children in care; the use of corporal punishment in schools and homes; the draft regulations that covered approved schools, children's homes, and boarding out of children; the Scottish Advisory Committee on Child Care (SACCC); and the staffing, structure, and organisation of the SED, SHD, and the SWSG. In excess of 400 files were consulted. Several files consulted for this report had been reviewed previously by the researcher for the Inspection reports commissioned by the Scottish Government in 2017.⁶ The NRS files accessed for this project were principally files that were open to public inspection, including those that had been redacted. Redacted files are those in which information that may have identified an individual has been blanked out. A small number of files consulted were un-redacted, and where referenced in the report the names of individuals are not stated.

It should be noted that throughout this report the title "Secretary of State" refers to the Secretary of State for Scotland, the "Minister of State" to the Minister of State for Scotland, and "Joint Parliamentary Under-Secretary of State" to one of the Parliamentary Under-Secretaries of State for Scotland. Additionally, throughout this report the reference to "the Joint Parliamentary Under-Secretary of State" refers to the minister whose brief included the supervision of services to children in care, including those provided by local authorities, children committed to Approved/List D schools, and children resident in voluntary homes. For the period 1945-52 there were two Joint Parliamentary Under-Secretaries of State, but only one of them held this brief. Between 1952 and 1964 there were three Joint Parliamentary Under-Secretaries of State, but again only one of them held this brief. Between 1964 and 1974 there were four Joint Parliamentary Under-Secretaries of State, but again only one of them held this brief.

⁶ See Ian Levitt, *Inspection Report 1930-68. Report prepared on behalf of the Scottish Government for the Scottish Child Abuse Inquiry* (October 2017), at SGV.001.001.8061-8159; Ian Levitt, *Inspection Report 1969-92. Report prepared on behalf of the Scottish Government for the Scottish Child Abuse Inquiry* (May 2018), at SGV.001.002.1263-1458.

Section 2: The Scottish Office and the Oversight of Child Care Provision within its Administration, 1945-74

This section covers the structure and organisation of the Scottish Office, 1945-75, in so far as it concerned the provision of child care under the legislation of the period. It deals first with the statutory responsibility of the Secretary of State for Scotland, the delegation of day-to-day responsibility to one of the Joint Parliamentary Under-Secretaries of State for Scotland, and the system of referrals of matters of concern to ministers. The section then explains the administrative arrangements of the Scottish Office divisions and branches that covered the subject matter, and the roles and responsibilities of the officials within them. The section concludes with a review of accountability in the general area of child care.

Ministerial responsibilities

In 1945 the direct statutory responsibilities of the Secretary of State were broadly indicated in the titles of the four Scottish Departments—Agriculture, Health, Education, and Home.⁷ The functions of the Department of Health for Scotland's (DHS) covered the nascent National Health Service (NHS), the control of public sector housing, town and country planning, and the soon to be abolished Poor Law—the latter covered institutional and foster care services for children deemed in need under the Poor Law (Scotland) Act, 1934.⁸ The Scottish Home Department (SHD) was not an exact counterpart of the Home Office (which covered issues of public order, the police, prison and fire services, and certain children's services), as its functions also included local government administration, the fishing industry, general questions of Scottish economic development, the Scottish Hydro-Electricity Board, and legal services. Indeed, whereas the functions of the Home Office covered approved schools and the juvenile courts (under the provisions of the Children and Young Person's Act, 1937), the responsibility for approved schools in Scotland rested with the Scottish Education Department (SED), and, for the juvenile courts, with the SHD. The administrative head of the Scottish Office, the Permanent Under-Secretary of State, was expected to co-ordinate and seek agreement on departmental responses where "large matters of principle were involved".⁹ Outside these large

⁷ TNA T165/388, SHD, "Blue Notes, 1947-48", p.2; TNA 228/1048, Notes on Government Organisation, No 5, *Scottish Administration* (1948), p.5.

⁸ Poor Law (Scotland) Act, 1934, at LEG.001.001.2177.

⁹ TNA T165/388, SHD, "Blue Notes, 1947", 2; David Milne, *The Scottish Office and other Scottish Government Departments* (1957), London: Allen & Unwin, pp.23-26; [Cmd. 9212] Royal Commission on Scottish Affairs 1952-1954, *Report*, (July 1954), pp.58-59, at LEG-000000102. Milne was Permanent Under-Secretary of State, the Scottish Office, 1946-59.

matters the SED and SHD (like the other Scottish departments) held a high degree of autonomy in submitting issues for the decision of the Secretary of State, subject to inter-departmental liaison where such issues touched on that of another department.

In 1945 the Secretary of State was assisted by two Joint Parliamentary Under-Secretaries of State. The junior ministers were not “fully responsible” for any specific department, but assumed oversight of areas of interest within the departments, especially those where there were pressing political concerns.¹⁰ In the immediate post-war era, such pressing political concerns were the public sector housing programme (to alleviate Scotland’s gross over-crowding), the necessity of planning additional schools (and teachers) subsequent to the raising of the school-leaving age, the necessity to increase agricultural production and hence reduce reliance on imports (and similarly to increase fish landings), and responding to the cost involved in the new “free at point of access, NHS”.¹¹ Additionally, where there were significant issues of concern, the three ministers together with the Lord Advocate and the Solicitor-General, would agree a common policy, thereby indicating to Parliament and the wider public a united team on Scottish affairs.¹² From Parliamentary debates for 1945-50 it is possible to identify which Joint Parliamentary Under-Secretary of State held responsibility for certain aspects of the child care brief, a brief that included agriculture, public order, and education. In March 1950, a new Joint Parliamentary Under-Secretary of State was appointed during a general re-organisation of Government and at a press conference indicated that they would “take an interest in” the health service, education, and certain services within the SHD including borstals and approved schools.¹³ The latter was evidently a misunderstanding as approved schools came within the oversight of the SED, but it is presumed the new appointment meant “Remand Homes...Juvenile Delinquents and After-Care”, as well as the registration of voluntary homes and the care of “homeless children” under the Children Act, 1948.¹⁴ It was the first indication that the oversight of child care provision generally had been concentrated within the purview of one of the Joint Parliamentary Under-Secretaries of State.

On the formation of a new Government in October 1951, the incoming Secretary of State, James Stuart, confirmed that legislation would be introduced to appoint a third

¹⁰ *Scotsman*, “Junior Scots Ministers”, 13 March 1950.

¹¹ Over a quarter of memoranda submitted to the UK cabinet by the Secretary of State, 1945-51, covered agricultural issues, see Ian Levitt, “Scottish papers submitted to the Cabinet, 1945-66: a Guide to Records held at the Public Record Office and the National Archives of Scotland”, *Scottish Economic and Social History*, Vol. 20, Part I, 2000, pp.58-125.

¹² *Scotsman*, “Young team at Scottish Office”, 6 March 1950; “Junior Scots Ministers”, 13 March 1950.

¹³ *Scotsman*, “Junior Scots Ministers”, 13 March 1950.

¹⁴ TNA T165/388, SHD, “Blue Notes, 1949-50”, p.4.

Joint Parliamentary Under-Secretary of State.¹⁵ On his appointment in February 1952, one of the three Joint Parliamentary Under-Secretaries of State, James Henderson-Stewart, was assigned to supervise the block of work that covered the functions of the SED, and within the SHD, “public order and miscellaneous social services, and fisheries development, including hydro-electricity”.¹⁶ Miscellaneous social services covered “deprived children, remand homes, juvenile delinquency, and probation”, and was located within one of the SHD’s administrative divisions (see below).¹⁷ Deprived or “homeless” children included the adoption of children.

From time to time between 1957 and 1964, the Secretary of State altered the allocation of duties between the three Joint Parliamentary Under-Secretaries of State. From 1957-62 the Joint Parliamentary Under-Secretary of State who held the child care brief held responsibility for “education; child care; public order, including prisons, police, probation, legal aid and licensing; fire services; civil defence; electoral machinery; industry and development; electricity; roads; coast protection.”¹⁸ For the period 1962-64 the duties of the post were recorded as “education; child care; public order including criminal justice, prisons, police, probation, legal aid and liquor and betting licensing; fire services; civil defence.”¹⁹

Following the formation of the Labour Government in October 1964, the Secretary of State, Willie Ross, altered the distribution of duties amongst the Joint Parliamentary Under-Secretaries of State.²⁰ One of the three, Judith Hart, was assigned the brief for health, education, and social work services (including child care), an allocation of duties that was retained throughout the remainder of the period under review.²¹

¹⁵ *Hansard*, “[Debate on the Address](#)”, 8 November 1951, 493. A Minister of State was also appointed, but that did not require legislation. Stuart was Secretary of State from October 1951 to January 1957.

¹⁶ [Cmd. 9212] Royal Commission on Scottish Affairs 1952-1954, *Report*, (July 1954), at LEG-000000102, p.55; on the appointment of the third Joint Parliamentary Under-Secretary of State, the work was listed as, “Education; police, fire and Civil Defence; fisheries; children, social and miscellaneous services; development, including hydro-electricity; criminal justice”, *Hansard*, “[Parliamentary Under-Secretaries \(Duties\)](#)”, 19 February 1952, 496, cc13-4W. Henderson-Stewart held the post until January 1957.

¹⁷ TNA 165/388, SHD, “Blue Notes” 1947-56; NRS HH41/862, Appendix 1, Scottish Home Department organisation, December 1952.

¹⁸ NRS SOE12/554, minute, after 1956, at SGV-000061821, p.61; *Hansard*, “[Parliamentary Under-Secretaries \(Duties\)](#)”, 23 January 1957, 563, c66W.

¹⁹ NRS SOE12/554, press release, Scottish Office, Allocation of duties in the Scottish Office, 18 September 1962 & 16 December 1963, at SGV-000061821, p.40 and 43-44.

²⁰ Willie Ross was Secretary of State from October 1964 to June 1970.

²¹ For instance, see NRS SOE12/554, press release, Scottish Office, Allocation of duties for new ministerial team, 12 January 1967, at SGV-000061821, p.104; NRS DD1/79/15, SDD Office Directory, September 1971; NRS SOE17/2/3, Scottish Office Directory, October 1975. Judith Hart was Joint Parliamentary Under Secretary of State from October 1964 to April 1966.

The “disposal of business” of a department, particularly where “Parliamentary or political considerations” were involved, was set out in a procedural minute by the Scottish Office’s Permanent Under-Secretary of State in 1957:

In general the routing of submissions will be settled by the Secretary of the Department.

In many cases it will not be necessary for a submission to go further than the appropriate Parliamentary Under-Secretary and after he has dealt with it the papers will be returned to the originating Department.

In the event of the Parliamentary Under-Secretary finding himself in disagreement with a Departmental recommendation he will normally discuss it with the Department. After such discussion a note of the major points at issue and of any agreement reached will be made and placed on the records.

Where agreement is not reached...any questions on the submission should be discussed and, if possible, cleared with the initiating Department before the submission goes to the next minister; a record of queries, etc. and of the Department’s replies should be attached to the submission before it is passed on.²²

As far as child care matters were concerned, from 1952 with the appointment of the third Joint Parliamentary Under-Secretary of State, it would appear that this procedure was already in operation.²³

Administrative organisation

The administrative organisation of Government departments during the period was based on a branch system where its head, an official with the rank of principal (or in some cases senior executive officer), oversaw work that was broadly similar in terms of the Department’s functions. Thus, the SED’s structure contained a branch that covered approved schools, and no other function.²⁴ The head of a branch would report to an Assistant Secretary who usually headed a division comprised of two or three branches. The work of a division may have contained branches of dissimilar work, but generally, where possible, the majority of its work would contain a similar theme. Thus, the SHD contained a division that covered the prisons and borstal services, but in 1947-48 the division that covered criminal justice also covered

²² NRS SOE12/554, minute, Scottish Office, Ministerial responsibilities; note on procedure, 23 May 1957, at SGV-000061821, p.104.

²³ For instance, NRS ED11/428, submission, Sir Charles Cunningham, Secretary, SHD, to J. Henderson-Stewart, Joint Parliamentary Under-Secretary of State, 23 September 1952, at SGV.001.008.4802-4805.

²⁴ TNA 214/180, SED Approved School Branch, O&M Review, “Review of the Department, Division I, Approved Schools Branch”, para 3. The division’s other branch covered establishment matters.

licensing, shops, private legislation, and relations with the Churches and universities.²⁵ In turn, the Assistant Secretary would report to an Under-Secretary who would be responsible for two or three divisions. The SHD had three Under-Secretaries, whilst the SED had two (with one of them acting as deputy secretary) who reported to the Department's Secretary. The respective departmental secretaries were the accounting officers for their Department's Vote (that is the annual budget agreed by Parliament for the Department). Within that Vote, the essential "building block" of any department's structure began with the branch. Indeed, induction into the work of the branch for those recruited through the administrative class open competition was based on "acquiring a direct knowledge of the routine and organization of the office by short-term work in subordinate positions", but where they could be responsible "for disposing of the less important matters."²⁶

Prior to February 1950, the SHD administrative division that covered "homeless children; probation and remand homes" also covered harbours and piers, and the Scottish fishery protection cruisers.²⁷ At that point the Department's fisheries functions were expanded and transferred to a separate division, and the SHD branch that dealt with local government superannuation was added to the division.²⁸ In the SED, the division that dealt with approved schools also covered establishment matters (the division had two branches).²⁹ Thus, whilst there was a single Joint Parliamentary Under-Secretary of State who covered child care in the broadest sense, unlike in England, there was no dedicated administrative division that was assigned to supervise the subject.³⁰ Indeed, the assistant secretary of the SED who covered approved schools in 1949 made it clear to the Public Accounts Committee that he

²⁵ TNA 165/388, "Blue Notes: Scottish Home Department, 1947-48", p.6.

²⁶ NRS DD1/21, "The Administrative Class of the Home Civil Service, 1954", pp.43-44, at SGV.001.009.0049-0050. Recruitment to the administrative class was usually reserved for university graduates.

²⁷ TNA 165/388, "Blue Notes: Scottish Home Department, 1949-50", p.6.

²⁸ TNA 165/388, "Blue Notes: Scottish Home Department, 1951", p.2.

²⁹ TNA 165/349, "Blue Notes, SED, 1947-55"; NRS HH41/862, Appendix 1, SED organisation December 1952. The latter noted that the Division's branches were a) approved schools, and b) the recruitment and salaries of teachers.

³⁰ TNA T165/205, "Blue Notes, Home Office, 1947-48", p.5; T165/101, "Blue Notes, Child Care, England and Wales, 1947-48". The Home Office began publication of an annual statement of "the particulars of the number of children in care under the Children Act, 1948, the manner of their accommodation, and the estimated costs of maintenance" in 1953, see [Cmd. 8910] *Children in the care of Local Authorities in England and Wales November*, (November, 1952). The SHD began a similar statement in 1957, but only for that year and the following, see [Cmnd. 461] SHD, *Children in the Care of Local Authorities, November 1957. Particulars of the number of children in care under the Children Act, 1948, the manner of their accommodation, and the estimated costs of maintenance*, (July 1958). *Particulars of the number of children in care under the Children Act 1948, the manner of their accommodation, and the estimate costs of maintenance*, at LEG-000000127. In Scotland annual statements on child care provision began in 1962, see [Cmnd. 1975] SED, *Education in Scotland in 1962. A report of the Secretary of State for Scotland*, (April 1963), ch. 8, at LEG-000000197, pp.85-92.

did not have detailed knowledge of approved schools but relied on his “henchman”—the relevant head of branch.³¹ The bulk of his work—two thirds—covered establishment matters, not approved schools.³² Similarly, when the Secretary of the SHD appeared before the Public Accounts Committee on the issue of child care, he was accompanied by the head of the “homeless children” branch, and not the division’s Assistant Secretary.³³

The divisional and branch responsibilities for approved schools and “homeless children” remained the same throughout the 1950s. For a period of time the approved school branch was also responsible for all schools, but by 1960 its work was concentrated on approved and special schools, the latter covering provision for “handicapped children”—children with learning disabilities in modern language.³⁴ Within the SHD the phrase “homeless children” had been replaced by the term “child care”, certainly by 1957, but more significantly the division was placed under the general supervision of the Under-Secretary who held responsibility for “prisons and borstal services”, as well as criminal justice.³⁵ No explanation has been found for the redistribution of duties, but it should be noted that the arrangement corresponded with the work of the Joint Parliamentary Under-Secretary of State noted above.

In March 1960, following a review of the distribution of duties between the Secretary of State’s departments in order to achieve a more balanced work-load on senior managers, the SHD’s branch that dealt with child care, adoption and remand homes was transferred to the SED.³⁶ The SED re-organised its divisional structure and relocated the recruitment, training and salaries of teachers to a separate division, and its “approved school and special schools and services” were merged with the “child

³¹ [314], *Eighteenth report from the Select Committee on Estimates together with minutes of evidence taken before Sub-committee F, and appendices, session 1948-49. Approved Schools*, (14 December 1949), p.52, Q3766, at LEG-000000105, p.72.

³² [314], *Eighteenth report from the Select Committee on Estimates together with minutes of evidence taken before Sub-committee F, and appendices, session 1948-49. Approved Schools*, (14 December 1949), p.8, Q3037, at LEG-000000105, p.28.

³³ [235], *Sixth Report from the Select Committee on Estimates, together with minutes of evidence taken before sub-committee D on 4th March and subsequent days and appendices, Session 1951-52, Child Care*, (9 July 1952), p.12, at LEG-000000119. As the purpose of the Committee was to examine the estimates for child care provision, the Secretary also brought the Assistant Secretary who held responsibility for SHD finance. The SHD Secretary was Sir Charles Cunningham and T. M. Martin was the branch Principal who covered ‘homeless’ children.

³⁴ David Milne, *The Scottish Office*, p.101; [235], *Sixth Report from the Select Committee on Estimates, together with minutes of evidence taken before sub-committee D on 4th March and subsequent days and appendices, Session 1951-52, Child Care*, (9 July 1952), at LEG-000000119.

³⁵ TNA T22/1263, SHD organisation at headquarters, September 1957; see also David Milne, *The Scottish Office*, p.178.

³⁶ For a discussion of the rationale underlying the redistribution, see Ian Levitt, “The Origins of the Scottish Development Department, 1943-62”, *Scottish Affairs* 14, No. 1(1996), pp.42-63.

care" branch.³⁷ The SHD retained responsibility for juvenile delinquency, that is the oversight of the court system, whether the magistrates' court or the sheriffs', and this function became the responsibility of the division that covered criminal justice. Whilst the care elements attached to the welfare of children became a core function of the SED, the oversight of the process of committal to an approved school remained attached to the SHD's oversight of the criminal justice system.

The establishment of the Social Work Services Group (SWSG) in March 1967, ahead of the preparation of the Social Work (Scotland) Bill, saw a re-alignment of child care services. By 1970 the SWSG had three divisions with one division that covered approved schools, remand homes, and adoption.³⁸ Another contained the branch that dealt with planning the establishment of children's panels. A third division covered the development of local social work services, including child care. The divisional and branch structure of the SWSG remained in this format until the end of the period under review, except that the division which covered List D schools (the previous approved schools) now included all child care services.³⁹ Its list of functions included assessment services (the previous remand home service), "deaths of children in care", and "child abuse". The SWSG was headed by an Under-Secretary who reported to the Joint Parliamentary Under-Secretary of State who, in turn, held responsibility for health, education, and social work services (see above). The Accounting Officer for the SWSG was the SED Secretary.

The role and work of the head of a branch (see above) was described in some detail by Lord Craigton, a Scottish Office Minister of State between 1959 and 1964 (and, as Jack Nixon Browne, one of the Joint Parliamentary Under Secretary of State, 1955-59). In reference to the work of a branch head, Craigton noted that:

His daily work is governed by precedents and by instructions from above. Frequently all he does or has power to do is controlled by some clause in an Act of Parliament. What controls his actions is not necessarily what he would like to do, or what he knows he ought to do, or what he thinks the Act intended - it is what the Act says. The Act may be obscure or out of date but his hands are tied....Frequently the official is administering a Regulation. This has the full force of law....A good official will bring to the notice of his seniors where and what a change in a Regulation or Act is desirable....The power to make a regulation, however, usually includes a power to alter them.⁴⁰

³⁷ NRS ED25/13/8, SED telephone directory, September 1961.

³⁸ NRS ED25/13/1, SWSG staff directory, May 1970, at SGV.001.002.2182.

³⁹ NRS SOE17/6/1, SED staff directory, August 1974.

⁴⁰ Lord Craigton, *Insight into Government* (1965), London: Pitman Publishing, pp.23-24. At this time a head of branch could also hold the rank of senior executive officer, that is an official not appointed through the administrative class open competition, which was the usual point of entry for principals. In
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Craigton added that for the official there was “safety in intelligently following precedent”. Such precedents and routines were fully described by the Treasury as it affected the SED’s branch that covered approved schools in 1950. It noted that,

The Branch verifies by perusal of committal orders, that there is adequate authority for admissions to approved schools. Returns are obtained annually of the instruction given in Approved schools, time spent on various pursuits, and the number of pupils under training. The branch endeavours to secure that pupils are given suitable training and that proper regard is paid to their welfare; that pupils who will benefit by it are released on licence; that pupils are not detained beyond their term without proper authority; and that adequate arrangements are made for obtaining suitable employment after release.

The Branch drafts regulations for the attainment of these objects and ensures, by scrutiny of returns, by specific enquiry and by liaison with H.M. Inspectors of Schools, that the regulations are complied with.

[...] A separate series of precedents, relating to interpretation of statutes, is also maintained, arranged under the schedule or section of the Act to which they refer, and thereafter in order of date.

To assist training, and to maintain uniformity of procedure, written instructions on routines matters are issued to officer.⁴¹

Similar “office” routines were applied to the scrutiny of approved school accounts that were used to calculate grant-aid; and by the SHD to the examination of local authority and voluntary home accounts before authorisation of grant-aid.⁴² Although Craigton noted that if the official sought “to strike new note” in presenting their own judgement on an issue (which could result in earlier promotion), they might face “danger” if the initiative failed. Craigton did not hold the child care brief during his period as a Joint Parliamentary Under-Secretary of State, but as Minister of State, was briefed on the progress of the Kilbrandon Inquiry, 1960-64.⁴³

At the end of the war, in common with other departments, the Treasury agreed a general re-organisation of a department’s senior management with the creation of the post of Under-Secretary that would control a group of divisions and provide

1959 J. Nixon-Browne was made a life peer as Baron Craigton of Renfield in the County of the City of Glasgow.

⁴¹ TNA T214/810, Report of the Treasury’s Organisation and Methods Division on the SED’s Approved School branch, December 1950, pp.1-2.

⁴² [235] *Sixth Report from the Select Committee on Estimates, together with minutes of evidence taken before sub-committee D on 4th March and subsequent days and appendices, Session 1951-52, Child Care*, (9 July 1952), pp.14 and 16, at LEG-000000119.

⁴³ For instance, NRS HH60/788, Craigton’s minute, 19 March, after SHD submission, 8 March 1962.

advice to the department's secretary (and ministers) on matters of "high policy".⁴⁴ The head of a division—the Assistant Secretary—was expected to hold the day-to-day knowledge of the work of their division and advise the Under-Secretaries accordingly. It was usually the case that a memorandum or minute to a minister would be submitted under the name of the Department's Secretary, though it had been prepared in draft by the division and Under-Secretary (see above).⁴⁵ Similarly, a paper or memorandum submitted to the Cabinet was usually submitted under the name of the Secretary of State, though it had been prepared in draft by officials following his instructions.

The position of a civil servant and one in the Scottish Office for the period under review has been described in some detail by James Hume in his autobiography, and underlines many of the points raised by Craigton.⁴⁶ In a 36 year career Hume occupied nine posts from assistant principal, principal (including a period acting as private secretary to a Joint Parliamentary Under-Secretary of State), Assistant Secretary, and subsequently an Under-Secretary. The routine of work, dealing with ministerial responses to Parliamentary questions (raised by MPs), collaborating with other officials on allied matters, the preparation of Bills, drafting replies to letters sent to a minister, corresponding with external bodies and meeting their representatives all indicate the confines of official action as described by Craigton. Indeed, he indicated the procedures then in place when a minister faced a Parliamentary Question:

Suggested replies to PQs were normally prepared by the principals or members of their staff; but the same departmental procedures were followed as in my early days as an assistant principal. Drafts were considered and sometimes amended by me as an assistant secretary, but also by the Under-Secretary under whom I worked and then the Secretary of the Department.⁴⁷

⁴⁴ NRS DD1/42, "The appointment of under-secretaries", letters, 16 October 1945 and 13 December 1945. It was acknowledged that ministers were likely to take a "close, personal interest" in the post-war legislative programme, as the electorate generally in the "Welfare State". For detail of an under-secretary's work see James Hume, *Mandarin Grade 3*, (1993) Edinburgh: Carnegie Publishing, Chapters 10 and 11. As Hume alludes, Under-Secretaries were located in St. Andrews House and hence in close proximity to Scottish Office ministers, whereas an assistant secretary and their support staff could be located in buildings elsewhere in Edinburgh. The post of deputy secretary was of the same rank as an Under-Secretary, except that they would cover for the department's secretary, when the latter was on leave or on other duties.

⁴⁵ NRS SOE12/554, minute, Scottish Office, Ministerial Responsibilities; Note on Procedure, 23 May 1957, at SGV-000061821, pp.104-105.

⁴⁶ James Hume, *Mandarin Grade 3*, (1993) Edinburgh: Carnegie Publishing.

⁴⁷ James Hume, *Mandarin Grade 3*, p.73. Hume also accounts the role of a minister's private secretary, which for a minister could be an assistant principal or a principal. A departmental secretary usually had an assistant principal or an executive officer as their private secretary. In official communication—minutes

Whilst Hume indicated that this elaborate procedure was not always followed in general ministerial correspondence, it did in the preparation of briefs to ministers on major policy issues. Thus in 1960, as David Cowperthwaite's account of the establishment of the Kilbrandon Inquiry indicates, his SHD criminal justice division submitted a draft proposal to the SED division that covered child care, then to the relevant departmental Under-Secretaries and secretaries, before it went to ministers.⁴⁸ The ministers subsequently agreed to submit a paper (originally drafted in Cowperthwaite's division) to the Cabinet seeking its consent to the Inquiry.

Hume's movement between briefs was certainly not unique. For instance, the first Under-Secretary of the newly formed SWSG in 1967, had served previously as an Under-Secretary in the Scottish Development Department with responsibility for the divisions that covered roads, the electricity boards, and one of the planning divisions.⁴⁹ Similarly the SWSG's Assistant Secretary who dealt with approved schools, remand homes, and adoption on the establishment of the Group had been a principal in the DHS (seconded to the Treasury, 1964-65), and previous to that, private secretary to the Permanent Under-Secretary of State.⁵⁰

In the area of child care, until 1968, Scottish Office ministers and officials were assisted by child care inspectors organised under the management of the Chief Inspector, Child Care and Probation.⁵¹ After 1968 their functions were subsumed within the SWSG's Central Advisory Service, and managed by the Chief Social Work

or submission—between ministers and departments it was usual for the correspondence to be handled by private secretaries.

⁴⁸ David J. Cowperthwaite, *The emergence of the Scottish children's hearing system: an administrative/political study of the establishment of the novel arrangements in Scotland for dealing with juvenile offenders – 1960-82*, (1988) Southampton: University of Southampton, pp.18-20. As

Cowperthwaite indicates the SED division had nudged him to initiate a review of policy. The head of SED division was Nigel D. Walker, see also NRS HH60/726, Cowperthwaite and Walker's minutes, 19 and 23 October 1960. In 1961 Dr. Walker was appointed Reader in Criminology at Oxford University and served as the Wolfson Professor of Criminology, University of Cambridge, 1973-84.

⁴⁹ NRS DD1/79/1, SDD staff directory, July 1964.

⁵⁰ NRS ED25/13/1, SED staff directory, May 1970; *Whitaker's Almanac, 1959* (London, 1959) p.430; *1962*, p.429; *1963*, p.430; *1965*, p.440; *1966*, p.432; *Imperial Calendar and Civil List, 1964* (London, 1964), p.22. See also comment by an H.M. Inspector of Schools with special responsibility for approved schools that since his appointment in 1950 he "should need two hands to count the number of Assistant Secretaries" who covered the brief, NRS ED15/307, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 29 June 1967, at SGV.001.009.2974. McPherson was appointed H.M. Inspector of Schools to cover approved schools in 1950, and was promoted to a H.M. Inspector of Schools (Higher Grade) in 1958, see TNA T214/827, chart, Scottish Education Department, Inspectorate, 1 June 1959. Prior to his appointment he had been a qualified school teacher.

⁵¹ After the Children Act, 1948, the Office of Chief Inspector, Child Care and Probation replaced that of the Juvenile Welfare and After-Care Office which dated from the implementation of the Children and Young Persons (Scotland) Act, 1932.

Adviser.⁵² In 1957 the Permanent Under-Secretary of State described the activities of the child care inspectors in the following terms:

the [SHD's] real influence on the character of the [child care] service is exercised largely through the contacts made by its inspectorate. This expert body of workers is continually on the move up and down the country, meeting and talking to those in the local authorities and voluntary bodies who are actually doing the work of child care, and helping them informally with advice and guidance. In this work, the inspectorate helps to spread the ideas of the most enlightened workers over the country as a whole and raise the good to the level of the best.⁵³

In essence the Permanent Under-Secretary of State was emphasising that whilst the administrative officials had the formal duty of advising the Secretary of State on drafting the service's rules and regulations, and also the eligibility of applications for grant aid, the Secretary of State relied on the inspectorate to investigate and review the application of child care practice, whether that of the local authority or voluntary bodies. The practice applied equally to approved schools. The same official noted that:

Through the H.M. Inspectors, some of whom have special responsibility for approved schools, [the SED] sees the premises, staffing and curricula are satisfactory, and that everything possible is done for the health and physical well-being of the pupils. The arrangements for supervision of pupils at the end of their detention are checked; [and] complaints and appeals from parents investigated.⁵⁴

The H.M. Senior Chief Inspector was responsible for the overall supervision and co-ordination of the work of the approved schools, but on a day to day basis the H.M. Inspector of Schools with specific responsibility "liaised" directly with the SED branch that covered approved schools.⁵⁵ After the appointment of a Chief Social Work Adviser in March 1968, the SWSG's Central Advisory Service became responsible for advice on the social work aspects of approved schools. The previous child care

⁵² [Cmnd. 4475] SED, *Social Work in Scotland in 1969*, (December 1970) at SGV-000064389, p.45. The Central Advisory Service's function was to provide social work advice on the development of the services, and was thus broader in its scope than the previous inspectorate.

⁵³ David Milne, *The Scottish Office*, p.60; see also, [235], *Sixth Report from the Select Committee on Estimates, together with minutes of evidence taken before sub-committee D on 4th March and subsequent days and appendices, Session 1951-52, Child Care*, (9 July 1952), "Note on the Child Care Inspectorate of the Scottish Home Department", 6 May 1952, p.127, at LEG-000000119.

⁵⁴ David Milne, *The Scottish Office*, p.80.

⁵⁵ David Milne, *The Scottish Office*, p.82; TNA 214/180, SED Approved School Branch, O&M Review, "Review of the Department, Division I, Approved Schools Branch", para 8. A second H.M. Inspector of Schools, J. S. Murphy, with special responsibility for approved schools was appointed in 1961. He had previously been an Inspector in the Home Office's Children's Branch, and prior to that a school teacher.

inspectors were re-named social work advisers. The H.M. Inspector of Schools remained responsible for advice on educational provision.

The Permanent Under-Secretary of State's view of the usefulness of an "outdoor" service was re-emphasised in 1966 with the publication of the Government's White Paper on *Social Work and the Community* ahead of the Bill to reform local social work services. It stated:

The fact that the developing social services have no long tradition of professional work in local authorities makes it very important that there should be available to local authorities, in setting up the new social work departments, the help and guidance of a professional advisory service. The Government intend to provide this service. It will absorb the present inspectorates for approved schools, child care and probation and the Scottish Home and Health Department's welfare officers. It will be composed of well-qualified people with collective experience in several branches of social work and headed by an officer of senior status.⁵⁶

The text underlined the belief that successful implementation of the proposed legislation to facilitate best practice would ultimately require an element of tact and persuasion.

Review

For the period 1945-74 oversight of the provision of child care in Scotland was one of a number of statutory responsibilities held by the Secretary of State for Scotland, and to which he was accountable to Parliament. The Secretary of State was supported in discharging these responsibilities by two Joint Parliamentary Under-Secretaries of State, with a third appointed in 1952. From 1945 it is possible to identify precisely which of the Joint Parliamentary Under-Secretaries of State held the provision of child care within their brief, although again it was one of a number of functions that they held. It is evident, certainly from 1952, that the Joint Parliamentary Under-Secretaries of State held delegated authority over their briefs, only referring matters of significant importance to the Secretary of State. Such matters that required the attention of the Secretary of State included the preparation of new legislation, the publication of the rules and regulations that that legislation entailed, the annual Votes for the departments and services, and issues which were deemed of significant political importance. In the area of child care the majority of Parliamentary Questions raised by MPs were answered by the appropriate Joint Parliamentary Under-Secretary of State. Where there were debates, for instance on

⁵⁶ [Cmnd. 3065] SED, SHHD, *Social Work and the Community. Proposals for reorganising local authority services in Scotland*, (October, 1966), p.15, at LEG-000000100.

the second or third reading of a Bill, the Joint Parliamentary Under-Secretary of State assisted the Secretary of State in introducing the new measure.⁵⁷

Until 1960 administration for the provision of child care rested between two departments, the SED and SHD, the former with responsibility for approved schools, and the latter for juvenile delinquency, remand homes, local authority children's services, the registration of children's homes, grants towards expenses of voluntary homes, and training in child care. From 1960 until the establishment of Children's Panels in 1971 (following the implementation of Part III of the Social Work (Scotland) Act, 1968) oversight of the judicial system as it affected juvenile delinquency remained with what was now entitled the Scottish Home and Health Department (SHHD).

Within the administrative divisions or branches that covered child care, the procedures and routines for considering issues that arose were governed by the relevant Acts, any rules and regulations that followed, and the financial accounts that determined the distribution of grant aid. An official would prepare briefs for the Secretary of State and Joint Parliamentary Under-Secretary of State in forthcoming Parliamentary debates, and respond to issues that arose or were presented in Parliamentary Questions, assist with correspondence from MPs and other "interested" bodies, and liaise with official advisory councils or groups. Administrative officials, of course, were not appointed as "specialists" or "experts" on child care, rather their training was focused on obtaining a knowledge of general office routines and precedents that would be useful in their careers, especially as promotion was likely to lead to a different brief. Expert advice in such matters would be sought, where necessary, from the outdoor officials, or through the reports of advisory councils or other groups. Critically, officials were expected to keep the Joint Parliamentary Under-Secretary of State informed of the implementation of an Act, the rules and regulations that followed, and financial issues that arose, whilst acknowledging that an Act would usually empower a Secretary of State to amend a regulation if felt necessary. Equally they were expected to keep the Joint Parliamentary Under-Secretary of State aware of circumstances such as the report of a Government committee, local authority representation and public opinion which might require legislative or regulatory review. In that sense officials who held the childcare brief (including the Child Care Inspectors and H.M. Inspectors of Schools) remained accountable to their ministers.

⁵⁷ For instance, *Hansard*, "Social Work (Scotland) Bill, 2nd Reading", 6 May 1968, cc.49-59 & 141-50.

Section 3a: The Child Care and Approved School Regulations in 1947

This section covers the discussions and decisions that led to the Children and Young Persons (Scotland) Care and Training Regulations, 1933. It traces the principles that underpinned the Regulations, which covered medical care, diet, physical accommodation, training and education, classification, and discipline. The section then reviews the discussions and decisions that led to the Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1947, which also covered local authority children placed in voluntary homes. The court cases that concerned assault by foster parents on foster children will be assessed—including a case in England that resulted in the death of the foster child—as well as an incident in a voluntary home. Finally, the section will review the principles that underlay both sets of regulations for the contemporary approach to child care and the issue of abuse.

Children and Young Persons (Scotland) Care and Training Regulations, 1933

The Children and Young Persons (Scotland) Care and Training Regulations, 1933, as approved by the Secretary of State, dealt with the management and discipline of approved schools, and grants to school.⁵⁸ It also dealt with the boarding out of children committed to the care of Education Authorities, and a number of related management matters. They remained in force until a revised set of Regulations were approved by the Secretary of State in 1961.

The 1933 Regulations followed the passage of the Children and Young Persons (Scotland) Act, 1932, and replaced the former Regulations as to reformatory and industrial schools which had been framed in 1921. These latter lapsed when Part II of the 1932 Act came into operation, and when reformatories and industrial schools were reclassified as approved schools. The new Regulations were regarded as more comprehensive than those issued by the SED in 1921, owing to the character of the 1932 Act. The part that related to approved schools management was extended by the inclusion of some new rules, “based on actual administrative practice or suggested by recent experience.”⁵⁹ They stated the necessity for the proper management of the approved schools—this included maintaining the building in a satisfactory condition with regard to lighting, heating, ventilation, cleanliness,

⁵⁸ The Order bringing the Act into operation on 1 November 1933 was approved by the Secretary of State on 29 July 1933, the same date as England, see NRS ED11/207, at SGV-000061844, pp.75-76.

⁵⁹ [Cmd. 4601] SED, *Report of the Committee of Council on Education in Scotland for the year 1933 with summary statistics for Scotland for the year 1932-33*, (May 1934), p.21, at LEG-000000101.

sanitary arrangements and fire-safety.⁶⁰ Schools had to provide adequate accommodation for residential and teaching needs and supply the SED with “a specimen of the weekly dietary scale for approval”.⁶¹ There were also rules governing the maximum number of pupils a school could accommodate, and “the scheme of education and training” provided required the approval of the SED.⁶² The employment of children was restricted, both in terms of its type and duration, and was not meant to interfere with the SED approved education and training timetable.⁶³ Further, the Regulations covered medical and dental examination, with the former including a specific responsibility on the school doctor to conduct a thorough medical examination of each pupil on admission (and before leaving), ensuring a quarterly inspection of every pupil, treating pupils as required, and giving advice on dietary and general hygiene.⁶⁴ Significantly the regulations required that the medical officer should examine the punishment book at each visit and draw the managers' attention to any apparent case of excessive punishment.⁶⁵

The Regulations specified that the discipline of an approved school was to be maintained by the personal influence of the headteacher, who was to keep all forms of punishment to a minimum.⁶⁶ Punishment would reflect both the seriousness of the offence and the pupil's temperament and physical condition. As a result of the offence pupils could lose certain privileges, including recreation and loss of conduct marks.⁶⁷ A pupil could not be deprived of recreation for more than one day at a time, and if “correction and reform” isolation was considered, this was to be for no longer than six hours, in a room that should be “safe for the purpose”, and with regular visits by and means of communication with staff.⁶⁸ The Regulations stipulated additionally that a teacher could administer minor punishments “for offences committed in the course of the ordinary lesson in the school-room” (as was permitted in other

⁶⁰ Children and Young Persons (Scotland) Care and Training Regulations, 1933, Regs. 1, 2, 3 & 4, at LEG.001.001.0634-0635.

⁶¹ Children and Young Persons (Scotland) Care and Training Regulations, 1933, Regs. 3 & 8, at LEG.001.001.0634-0635.

⁶² Children and Young Persons (Scotland) Care and Training Regulations, 1933, Regs. 5 & 8, at LEG.001.001.0635.

⁶³ Children and Young Persons (Scotland) Care and Training Regulations, 1933, Reg. 10, at LEG.001.001.0635.

⁶⁴ Children and Young Persons (Scotland) Care and Training Regulations, 1933, Regs. 20 & 21, at LEG.001.001.0637-0638.

⁶⁵ Children and Young Persons (Scotland) Care and Training Regulations, 1933, Reg. 20, at LEG.001.001.0637.

⁶⁶ Children and Young Persons (Scotland) Care and Training Regulations, 1933, Reg. 12, at LEG.001.001.0636.

⁶⁷ Children and Young Persons (Scotland) Care and Training Regulations, 1933, Reg. 11, at LEG.001.001.0636.

⁶⁸ Children and Young Persons (Scotland) Care and Training Regulations, 1933, Regs. 13 & 14, at LEG.001.001.0636.

schools), but such punishment could not be inflicted more than once for the same offence.⁶⁹ All other punishments were to be administered by the headteacher. Beyond the above listed punishments, corporal punishment, with a light tawse, was permitted within certain limits.⁷⁰ On girls it was to be used sparingly, and limited to three strokes on the hand.⁷¹ For boys under the age of 14, it was limited to two strokes on the hand or four on the "posterior" over trousers.⁷² For those over that age it was three strokes on the hand and six on the "posterior" over trousers. Punishments administered by the headteacher (that is outside of "school-room" offences) were not to be inflicted in the presence of other pupils.⁷³ Thus the disciplinary Regulations were drawn within certain tight parameters that could be readily reviewed and checked by the governors, the medical officer, and H.M. Inspector of Schools within the punishment log book that an approved school was required to maintain.

The Regulations reflected much of the Report of the Committee on Reformatory and Industrial Schools in Scotland, published in 1915.⁷⁴ In its evidence witnesses had indicated concerns about the physical state and quality of accommodation of the schools and apprehension that certain forms of work, with no "educative value", appeared to take precedence over the teaching of the curriculum.⁷⁵ On school diet, it noted that each school required official approval of its diet by the then Chief Inspector of Reformatories, but that

One witness, the matron of a reformatory, admitted she used her own discretion as to the food supplied to the children. The chief inspector informed us that in the past the dietaries were probably passed as a matter of form, reliance being placed on the judgment of the authorities who submitted them.⁷⁶

⁶⁹ Children and Young Persons (Scotland) Care and Training Regulations, 1933, Regs. 16 & 17, at LEG.001.001.0637.

⁷⁰ Children and Young Persons (Scotland) Care and Training Regulations, 1933, Reg. 14, at LEG.001.001.0636.

⁷¹ Children and Young Persons (Scotland) Care and Training Regulations, 1933, Regs. 14 & 15, at LEG.001.001.0636.

⁷² Children and Young Persons (Scotland) Care and Training Regulations, 1933, Reg. 15, at LEG.001.001.0636.

⁷³ Children and Young Persons (Scotland) Care and Training Regulations, 1933, Reg. 17, at LEG.001.001.0637.

⁷⁴ [Cd. 7886] *Report of the Departmental Committee on Reformatory and Industrial Schools in Scotland*, (1915), at LEG-000000124. There had been a similar Committee on English provision.

⁷⁵ [Cd. 7886] *Report of the Departmental Committee on Reformatory and Industrial Schools in Scotland*, (1915), p.48, para 125, at LEG-000000124.

⁷⁶ [Cd. 7886] *Report of the Departmental Committee on Reformatory and Industrial Schools in Scotland*, (1915), p.42, para 113, at LEG-000000124.

It recommended that if a school diet was reported by its medical adviser to be unsatisfactory then a new diet should be submitted for official approval. Similarly, the Committee commented that there was no evidence of especially unhealthy conditions in the schools but recommended that school medical officers “should make themselves familiar with the sanitary state of buildings, heating, ventilation, diet, clothing, and similar matters”.⁷⁷ Further, it also commented that in some schools the use of dentists fell “short of the standard generally reached”, and recommended that each school “should be required to contract with a dentist for visits and examination of the children at short intervals, and for the use of conservative dentistry wherever necessary.”⁷⁸

It acknowledged that as elementary schools accepted the use of corporal punishment it could not recommend its restriction (far less abolition) in reformatories. On one issue the Committee did raise a concern, commenting that:

We have observed, however, a want of discrimination in regulating the severity of the punishment, offences of varying gravity being apparently treated in the same way. We think the inspectors should call the attention of superintendents to this matter if they observe that there is a tendency for punishments to be uniform.⁷⁹

To regulate the use of corporal punishment it recommended that a member of the school’s governing board should examine and initial the punishment book at least once a month.

On other forms of punishment, the Committee was more circumspect noting that:

Minor offences are punished by the forfeiture of privileges—*e.g.*, of leave to go out on Saturday afternoon or the deprivation of delicacies given, for instance, at a meal. We have no objection to these kinds of punishment, though we should not approve of a child being punished by being deprived of a meal altogether or having the substantial part of a meal cut down. We are not aware that in Scotland the children are ever confined in cells. We were informed by one superintendent of a girls’ school that girls were occasionally punished for misconduct by being isolated in a room. This kind of punishment is sanctioned by the model rules and we see no objection to it.⁸⁰

⁷⁷ [Cd. 7886] *Report of the Departmental Committee on Reformatory and Industrial Schools in Scotland*, (1915), p.50, para 129, at LEG-000000124.

⁷⁸ [Cd. 7886] *Report of the Departmental Committee on Reformatory and Industrial Schools in Scotland*, (1915), pp.51-52, para 133, at LEG-000000124.

⁷⁹ [Cd. 7886] *Report of the Departmental Committee on Reformatory and Industrial Schools in Scotland*, (1915), p.56, para 143, at LEG-000000124.

⁸⁰ [Cd. 7886] *Report of the Departmental Committee on Reformatory and Industrial Schools in Scotland*, (1915), p.57, para 145, at LEG-000000124.

The Committee accepted that there were issues of care—such as the supervision exercised by local governing boards, the provision of medical attention, and standard of physical accommodation—that required improvement, but generally refrained from pronouncement on the existence of abuse within institutions.

The conclusions reached by the Committee were essentially endorsed by the Scottish Departmental Committee on the Treatment of Young Offenders in 1928.⁸¹ In particular the Committee stressed concerns relating to diets, the reporting of corporal punishment in the school log-book and the use of isolation rooms, adding that such rooms should be in easy communication with staff and that any pupil so confined “should be frequently visited”.⁸²

On the passage of the Children and Young Persons (Scotland) Act, 1932, the Scottish Office’s attitude towards the now designated approved schools, was summed up by one official in the following language:

I do not know much about R&I [Reformatory and Industrial] Schools now but I read a Report on them which was issued about 1919, when they were far from satisfactory. They are still run, I believe, by bodies of Voluntary Managers, are staffed by inferior teachers and in some cases housed in obsolete premises. I understand that the recent Act will give SED an opportunity of reorganising them. From all accounts they need it.⁸³

The implementation of the 1932 Act thus presented the SED with a number of issues. For instance, its officials informed the Parliamentary Under-Secretary of State that in order to secure enough accommodation for children committed to approved schools, the Scottish system would continue to rely on voluntary homes, the latter subject to inspection by the Secretary of State’s officials (see below).⁸⁴ It was

⁸¹ See NRS ED20/720, *Departmental Committee on the Treatment of Young Offenders (Protection & Training), 1928*, at SGV-000067509.

⁸² NRS ED20/720, *Departmental Committee on the Treatment of Young Offenders (Protection & Training), 1928*, at SGV-000067509, pp.108-9.

⁸³ NRS ED11/203, minute, T. D. Fairgrieve, Principal, Scottish Office, 16 September 1932, at SGV-000061824, p.4.

⁸⁴ NRS ED11/204, submission, J. W. Peck, Second Secretary, SED to J. Skelton, Parliamentary Under-Secretary of State, c. 26 April 1932, at SGV-000061843, p.84. As Second Secretary J. W. Peck was usually based in London and hence could liaise directly with Scottish Office ministers during Parliamentary business, and other London-based UK departments. See also NRS ED14/272, minute, W. W. McKechnie, Secretary, SED, 14 Jan 1932, at SGV-000067160. A list of schools and homes in July 1933 can be found in NRS ED11/211, at SGV.001.009.4369-4370; and NRS ED11/214, draft list, c. 6 January 1933, at SGV-000061836, pp.86-93. Nazareth House was one such voluntary home that registered as an approved school. In 1945 amongst its 130 girls, there were 17 approved school cases, five committed to the care of an education authority, and 33 Poor Law (Public Assistance) cases, see NRS ED11/275, minute, A. J. Betts, Administrative Officer, SHD, 6 February 1945, at SGV.001.008.4232. Betts had been an inspecting officer for voluntary homes with the Scottish Juvenile and Welfare After-Care Office, see NRS ED11/211, warrant, 15 November 1938, at SGV.001.009.4244.

presumed that reclassification of the approved schools (and voluntary homes used as approved schools) would assist the segregation of children according to their educational and training requirements, though given the small number of schools available the SED acknowledged that "the whole problem of classification" would "be very difficult".⁸⁵ This was particularly seen as an issue that concerned "older girls".⁸⁶ The SED assumed that this group of girls required schools with female staff who had "special training" in the provision of care for girls previously exposed to "very serious" risks of, or "actual moral danger".⁸⁷ To provide that care the SED believed that there would have to be a variety of schools available, with the number of "inmates" in each to be "quite limited".⁸⁸

Under the Children and Young Persons (Scotland) Act, 1932, voluntary homes were subject to inspection by inspectors appointed by the Secretary of State, and were required to be registered with the Scottish Office (the Department then responsible for administering the Act in relation to voluntary homes). The Scottish Office initially considered the registration form used for homes under the Probation of Offenders (Scotland) Act, 1931.⁸⁹ Under the 1931 Act, a home could only be registered by the Secretary of State once it had been visited by the Probation Inspector and the registration form satisfactorily completed.⁹⁰ It included questions on clothing, diet, accommodation, amenities (including lockers, cutlery, and tablecloths), bath and sanitary accommodation, recreation, and the provision of books and magazines. After considering the Home Office's registration schedule (for England) the Scottish Office truncated its discussion on a Scottish form of questions and adopted a similar schedule.⁹¹ It was designed principally to provide information on "matters deemed essential" for registration purposes and indicated the ownership, management, and finance of the home with additional details on the number of beds, the age

⁸⁵ NRS ED11/204, minute, J. W. Peck, Second Secretary, SED, 17 February 1932, at SGV-000061843, pp.69-71.

⁸⁶ NRS ED11/204, submission, J. W. Peck, Second Secretary, SED to J. Skelton, Parliamentary Under-Secretary of State, c. 26 April 1932, at SGV-000061843, p.84.

⁸⁷ NRS ED14/272, minute, J. W. Peck, Second Secretary, SED, 11 January 1932, at SGV-000067160, pp.65-66.

⁸⁸ NRS ED14/272, minute, J. W. Peck, Second Secretary, SED, 11 January 1932, at SGV-000067160, pp.65-66.

⁸⁹ NRS ED11/211, minute, T. D. Fairgrieve, Principal, Scottish Office, 10 December 1932 covering form, at SGV.001.009.4420.

⁹⁰ NRS ED11/211, letter, G. E. Troup, Secretary, Scottish Juvenile Welfare and After-Care Office, 5 September 1933, at SGV.001.009.4352-4353. A home meant a private or voluntary home. The Secretary of the Scottish Juvenile Welfare and After-Care Office subsequently headed the Scottish Office's team of inspectors under the Children and Young Persons (Scotland) Act, 1932, as well as the Probation of Offenders (Scotland) Act, 1931.

⁹¹ NRS ED11/211, letter, T. D. Fairgrieve, Principal, Scottish Office, 29 August 1933, at SGV.001.009.4356.

distribution of the children, and provision of medical inspection.⁹² After consultation with the Secretary of Welfare and After-Care Office, the Scottish Office agreed that certain questions drawn from Probation Homes' registration would be used by its inspectors during their visit to voluntary homes.⁹³ These included clothing, diet, accommodation, amenities (including lockers cutlery and tablecloths), bath and sanitary accommodation, recreation, the provision of books and magazines, and indoor and outdoor recreation. On the issue of inserting a question on discipline the Officer noted that:

The answer to this question might often read "slight chastisement in exceptional cases". There is also an odd idea - although I do not know how far it is still prevalent - that punishment is only "corporal punishment" when a tawse or cane is used. And then there is another point with which I am sure you would agree, namely, that, in the case of Homes for older girls, we would require to be careful not to suggest that corporal punishment is a normal form of discipline which we might expect to find there.⁹⁴

He recommended that in seeking to ascertain an answer to the question the inspector should be "some one with tact and experience".⁹⁵

As noted above, the 1933 Care and Training Regulations prescribed in some detail the minimum standards of care and training that an approved school should provide.⁹⁶ At the introduction of the Regulations there had been little comment from either local authorities or voluntary school managers on the standards. In part this reflected the comprehensive nature of the 1932 Children and Young Persons (Scotland) Act, but it was due also to the fact that the standards reflected the recommendations of the two preceding departmental committees of 1915 and 1928.⁹⁷

Following the implementation of the legislation and introduction of the Regulations, the SED accepted the comment of the Scottish Office that the standard of care within

⁹² NRS ED11/211, The Children and Young Persons (Voluntary Homes) Regulations, 1933, at SGV.001.009.4341-4344.

⁹³ NRS ED11/211, letter, G. E. Troup, Secretary, the Scottish Juvenile Welfare and After-Care Office, 5 September 1933, at SGV.001.009.4352-4353; and see, ED11/440/1, Nazareth House Schedule, 30 October 1934, at SGV.001.009.5112-5113.

⁹⁴ NRS ED11/211, letter, G. E. Troup, Secretary, the Scottish Juvenile Welfare and After-Care Office, 5 September 1933, at SGV.001.009.4352-4353.

⁹⁵ NRS ED11/211, letter, G. E. Troup, Secretary, the Scottish Juvenile Welfare and After-Care Office, 5 September 1933, at SGV.001.009.4352-4353.

⁹⁶ Children and Young Persons (Scotland) Care and Training Regulations, 1933, at LEG.001.001.0634-0645.

⁹⁷ For instance, see, *Scotsman*, "Care of Juveniles: Procedure under new Children Act - Edinburgh; explanation", 11 January 1934; for the comprehensive nature of the reform of the regulations, see also NRS ED15/134, minutes, J. W. Peck, Second Secretary, SED, 13 & 15 October 1932; and minute, A. Alderman, Principal Staff Officer, SED, 14 October 1932, at SGV-000067504, pp.2-3.

the schools required improvement. In 1939 the Department's Secretary informed the Select Committee on the Estimates that:

These schools are the successors of the old reformatory and industrial schools, and many of these buildings were built by voluntary effort before the State took a hand in this sort of thing; consequently they are old and rather obsolete. We have had many criticisms of the structural condition of these schools; we have therefore felt it necessary to press for improvements in a number of them.⁹⁸

He added that in consequence of the policy the Department had "shut up a very bad one at Westhorn"⁹⁹ (Tollcross, Glasgow) in 1936. The SED's annual report of that year commented that

it was necessary to prohibit the further admission of boys to one of the senior schools, in view of the unsatisfactory nature of the school buildings and the inadequacy of the facilities for training, and to open a temporary school for boys of the class affected.¹⁰⁰

It was the first enforced closure of a school on grounds of inadequate care by the SED.¹⁰¹

Under the 1933 Regulations Education Authorities were required to make rules for boarded-out children to be observed by foster parents and to submit the rules for approval to the Secretary of State.¹⁰² Children who were boarded out under the 1932 Act had been committed by the Courts to the care of a "fit person" (usually the Education Authority), rather than committed to an approved school.¹⁰³ In setting out the rules the SED, after consultation with the Scottish Office, drew both on the rules under consideration by the Home Office for English local authorities and the circular on Boarded-Out Children issued by the Department of Health for Scotland to Poor Law authorities in June 1931.¹⁰⁴ Importantly the Regulations stated that the

⁹⁸ [145] *Report from the Select Committee on Estimates*, (5 July 1939), p.60, at LEG-000000120.

⁹⁹ [145] *Report from the Select Committee on Estimates*, (5 July 1939), p.61, at LEG-000000120.

¹⁰⁰ [Cmd. 5428], SED, *Report of the Committee of Council on Education in Scotland for the year 1936, with summary statistics for Scotland for the year 1935-36*, (April 1937), p.50, at LEG-000000122.

¹⁰¹ See SED, *Reports of the Committee of Council on Education in Scotland*, 1921-35.

¹⁰² NRS ED11/214, Children and Young Persons (Scotland) Care and Training Regulations, 1933, at SGV-000061836, pp.20-35. Regulations as to boys and girls committed to the care of Education Authorities (Sections 19(5) and 20(2) of the 1932 Act).

¹⁰³ The Courts could also commit a child to the Poor Law Authority, as they had done under the Children Act, 1908, but the Scottish Office agreed that no special regulations were required for these cases as it believed the numbers would be small, see NRS ED11/214, minute, J. L. Jack, Assistant Secretary, DHS, 29 March 1933. At SGV-000061836, pp.8-9.

¹⁰⁴ NRS ED11/214, minutes, T. D. Fairgrieve, Principal, Scottish Office, 30 January, J. E. de Watteville, Assistant Secretary, Scottish Office, 27 February; and T. D. Fairgrieve, Principal, Scottish Office, 8 June 1933, at SGV-000061836, pp.6-8 and 11; DHS, Circular 18, 'Boarded-Out Children', 29 June 1931, at SGV-000061836, pp.55-59.

maximum number of children that could be boarded out to a foster home should not exceed two, and the total number of children in the household should not exceed four, with no foster parent relying for a living on the payments received for the care of the children. The Education Authority's medical officer was required to examine the child before being boarded out and then at sixth-monthly intervals, with medical care provided, as necessary, through local medical practitioners. The Regulations did not comment on dietary or disciplinary matters other than that the foster parent was to ensure the child was trained in good manners and language. Additionally, under the Regulations the Education Authority was required to inform the SED in the event of "the serious illness, or death of, or of accidents to" a child.

Children (Boarding-out, etc.) (Scotland) Rules and Regulations, 1947

In July 1945 the SED and DHS agreed that both Departments should consider bringing their respective Boarding-out Regulations "into line".¹⁰⁵ The DHS's Poor Law regulations dated from the Poor Law (Scotland) Act, 1934.¹⁰⁶ The Departments understood that the Home Office was conducting a review of its regulations in the light of concerns that followed the revelations of the abuse of three children who had been boarded out in Shropshire and asked Scottish local authorities to review and ensure that their arrangements for dealing with the boarding out of children were "being properly observed".¹⁰⁷ The Shropshire foster father was convicted of manslaughter of one of the children and sentenced to six years in prison, and the foster mother found guilty of neglect and sentenced to six months' imprisonment.

The first draft of the revised boarding out regulations by the DHS and SED was completed by the end of 1945 and, in light of the then statutory provisions—the Poor Law (Scotland), Act, 1934 and the Children and Young Persons (Scotland) Act, 1937—covered only children in statutory care.¹⁰⁸ By the time of the first draft the Secretary of State, Joseph Westwood, and the Departments were aware of the successful prosecution of two Fife foster parents in August 1945—the foster father had been sentenced to nine months imprisonment on grounds of wilful assault and ill-treatment, and the foster mother to 12 months imprisonment on grounds of

¹⁰⁵ NRS ED11/180, letter, Charles C. Cunningham, Deputy Secretary, SHD, to A. J. Aglen, Assistant Secretary, SHD, London Office, 13 July 1945, at SGV-000067158, p.198.

¹⁰⁶ NRS ED11/275, Poor Relief Regulation (Scotland), 1934, at SGV.001.008.4290-4299. No papers concerning drafting the Poor Law Boarding-out Regulations appear to have been retained at the NRS.

¹⁰⁷ [Cmd. 6636]. Home Office, *Report by Sir Walter Monckton K.C.M.G., K.C.V.O., M.C., K.C., on the circumstances which led to the boarding out of Dennis and Terence O'Neill at Bank Farm, Minsterley and the steps taken to supervise their welfare*, (May 1945), at LEG-000000103; [Cmd. 6661] DHS, *Summary Report by the Department of Health for Scotland for the year ended 30th June 1945*, (1945), p.25. at LEG-000000123; see also *Evening Telegraph and Post*, "Dundee and Board-Out Children", 9 August 1945.

¹⁰⁸ NRS ED11/167, Draft Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1946, at SGV-000061816, pp.19-26.

beating and thrashing two brothers.¹⁰⁹ The Sheriff had dismissed the defence claim that the assaults were the result of misconduct by the boys concerned. The Departments were also aware of an incident that involved four children boarded out by a voluntary society who “were found to have been underfed, neglected and dirty”.¹¹⁰ In response to the incident the Joint Parliamentary Under-Secretary of State, George Buchanan, stated in the House of Commons that

of all the questions I have had to deal with since I took office, this one possibly has given me more worry than any other...[and] so far as the Scottish Office is concerned, we are taking every possible step not only in regard to voluntary bodies but also to public authorities to see that there is no abuse of children.¹¹¹

There had been a further reported case in 1945, but from the retained Government papers of the period it is not clear how far the incident was recorded in the official consideration of the Regulations. It involved a boy who alleged that he had been “wilfully assaulted” by his foster father, an Aberdeenshire farmer, but the verdict was returned as “not proven” (It was acknowledged that he had been whipped).¹¹² The Sheriff, in his adjourned judgement commented that

in view of the evidence generally, that in selecting homes for boarded-out boys the Public Assistance authorities should choose only those where the parents have a more mature experience of bringing up children...and that boys boarded out at farms were only put to work for which they were capable, consistent with the prosecution of their studies.¹¹³

As in the 1933 Regulations, the initial draft of the revised boarding out regulations by the DHS and SED stated a maximum number of children that could be boarded out to a foster home, and that no foster parent relied mainly for a living on the payments received for the care of the children.¹¹⁴ Before a child was first boarded out the draft stated that the local authority was required to ensure that they were provided with

¹⁰⁹ *Scotsman*, “Prison for Fife Foster Parents”, *Courier*; “Mr and Mrs Walton sentenced to jail” 4 August 1945, & *Evening Telegraph and Post*, “Fife cruelty case, 4 Aug 1945”, “Fife and Boarded-Out Children”, 17 September 1945; see also comment by Walter Elliot MP and response of the Secretary of State to the Fife case, *Hansard*, “[Clause 22 — \(Care of mothers and young children\)](#)”, 21 April 1947, c. 634. Westwood was Secretary of State from August 1945 to October 1947.

¹¹⁰ *Hansard*, “Boarded-out Children”, 27 November 1945, 1065.

¹¹¹ *Hansard*, “Boarded-out Children”, 27 November 1945, 1065. Buchanan was Joint Parliamentary Under-Secretary of State from August 1945 to October 1947. At the time of the Parliamentary Question he was deputising in the House of Commons for Westwood who was unwell.

¹¹² *Scotsman*, “Boarded-out Boy Case”, 6 June 1945; *Press and Journal*, “Charge against Farmer not Proven”, 6 June 1945.

¹¹³ *Scotsman*, “Boarded-out Boy Case”, 6 June 1945; *Press and Journal*, “Charge against Farmer not Proven”, 6 June 1945.

¹¹⁴ NRS ED11/167, Draft Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1946, Regs. 11 & 13, at SGV-000061816, p.21.

sufficient footwear and stockings and at least two outfits of under-clothing and outer-clothing, and an overcoat, and ensure that they were kept supplied thereafter.¹¹⁵ The local authority's medical officer was required to examine the child before being boarded out and then at sixth-monthly intervals, with medical care provided, as necessary, through local medical practitioners.¹¹⁶ A further rule covered that an officer of the local authority—appointed for the purpose to assess the suitability of the foster parents—should visit the home at least once every 12 months and report on the general condition of the home; the sleeping arrangements and the condition of the bed, bed clothing, and other apparel; the child's health, general welfare and behaviour; the progress of their education; the child's use of time outside of school; any complaints made regarding the child; and "any other matters relative to the care and supervision of the child by the foster-parent or to the child's welfare which they consider should be reported."¹¹⁷ The draft also included a reference to the obligation of the local authority to "satisfying themselves as to the arrangements for the child's welfare."¹¹⁸ Where a local authority took action on a report it was obliged to send it to the Secretary of State.¹¹⁹ Whilst a fostered child could be visited by an officer acting on behalf of the Secretary of State at any time, the draft omitted the previous 1933 Regulation on informing the DHS or SED in the event of "the serious illness, or death of, or of accidents to" a child.¹²⁰ Instead it indicated that the local authority was to inform the Secretary of State of any alteration in the circumstances of the boarded-out child and "furnish...such other particulars" as the Secretary of State required.¹²¹ The draft included an attached Schedule that stated that "a foster-parent shall not administer indiscriminate or harsh punishment on any pretext", but that they should inform the local authority of "persistent misconduct".¹²² The latter part of this section on reporting misconduct had not appeared within the 1933 Regulations (the Schedule was a statement of the

¹¹⁵ NRS ED11/167, Draft Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1946, Reg. 17, at SGV-000061816, p.22. This Regulation reflected past practice within the Poor Law.

¹¹⁶ NRS ED11/167, Draft Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1946, Reg. 23, at SGV-000061816, p.23. This Regulation also reflected past practice within the Poor Law.

¹¹⁷ NRS ED11/167, Draft Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1946, Reg. 22, at SGV-000061816, pp.22-23. This Regulation also reflected past practice within the Poor Law.

¹¹⁸ NRS ED11/167, Draft Children (Boarding-out etc) (Scotland) Rules and Regulations, 1946, Reg. 30, at SGV-000061816, p.24.

¹¹⁹ NRS ED11/167, Draft Children (Boarding-out etc) (Scotland) Rules and Regulations, 1946, Reg. 32, at SGV-000061816, p.25.

¹²⁰ NRS ED11/167, Draft Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1946, Regs. 34 & 37, at SGV-000061816, p.25.

¹²¹ NRS ED11/167, Draft Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1946, Reg. 38, at SGV-000061816, p.26.

¹²² NRS ED11/167, Draft Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1946: Conditions to be observed by Foster-Parents, Schedule (f), at SGV-000061816, p.28.

principles to be followed by foster parents in the cases of boarded-out children). It also covered the supply of food and clothing, as well as sleeping arrangements.

Additionally the draft of the revised boarding out regulations by the DHS and SED indicated that where foster care was not “desirable” a local authority could place a child in a children’s home approved by the Secretary of State for the purposes of the Rules and Regulations.¹²³ Whilst the SHD accepted that the draft regulations seemed “entirely reasonable”, the Under-Secretary responsible for the registration and inspection of voluntary homes noted that

unless the Secretary of State approves for the purposes of the Rules and Regulations all the voluntary homes which are subject to his inspection under the Children and Young Persons (Scotland) Act, 1937, and against which he has not taken action under that Act, he may be criticised for insisting upon a higher standard of care for homeless children who are the responsibility of a local authority than for those homeless children who are not a public charge and are cared for in voluntary homes not approved under Rule 27. His defence would no doubt be that his statutory powers to take action under the 1937 Act are, as already indicated, limited to those cases where he is satisfied that the management of the home, or the accommodation provided for, or the treatment of, children and young persons in it, is such as to endanger their welfare; and that while a home does not in fact endanger the child’s welfare, it may, unfortunately, fail to reach the standard to which children who are a public charge are entitled. Such a defence, while it appears to be legally sound, would doubtless provoke the retort that all homeless children should be assured of the same minimum standard of care.¹²⁴

The official was particularly “apprehensive” about its “repercussion” on the Department’s responsibility under the 1937 Act (and, as he stated, the then “general agitation” on the care of “homeless children”).¹²⁵ In 1944 the SHD had informed Tom

¹²³ NRS ED11/167, Draft Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1946, Reg. 27, at SGV-000061816, p.24.

¹²⁴ NRS ED11/167, minute, C. C. Cunningham, Deputy Secretary, SHD, 15 April 1946, at SGV-000061816, p.6; see also the same official’s comment to the DHS a year earlier that to ensure continuity of central inspection (by a State registered nurse) of Poor Law children in local authority and voluntary homes the SHD wished “to have all voluntary homes inspected – no doubt at long intervals – by a medical officer who could check up on the health of the children and on the general arrangements for their medical care”, NRS ED11/275, minute, 13 February 1945, at SGV.001.008.4270.

¹²⁵ NRS ED11/167, letter, C. C. Cunningham, Deputy Secretary, SHD, to W. Hewitson Brown, Secretary, the Clyde Committee on Homeless Children, 15 April 1946, at SGV-000061816, p.5. The Committee’s Secretary was the SHD’s Chief Inspector, Welfare and After Care. The reference to the “general agitation” referred to the press and Parliamentary pressure to hold an inquiry into the Shropshire boarding-out case. In January 1932 Hewitson Brown was appointed assistant secretary to the then Scottish Juvenile Welfare and After-Care Office subsequent to the passage of Probation of Offenders (Scotland) Act, 1931, see TNA T162/361, letter, T. McQ. Walker, Assistant Establishment Officer, Scottish Office, 10 November 1932. Following the Children and Young Persons (Scotland) Act, 1932, Hewitson Brown was authorised to

Johnston, the Secretary of State, of its concerns regarding voluntary homes, noting that:

So far as concerns voluntary homes...there has in Scotland been a great improvement in the conditions under which children and young persons live. But conditions are in many cases far from ideal and in some cases are still definitely unsatisfactory. Moreover, there is in all cases, the broad general question whether an institutional upbringing, however admirable, is in the best interests of the child or young person.¹²⁶

A separate minute outlined the statutory position the Secretary of State faced in securing improvements in the standard of care provided. It stated that

as in England the S of S has power...to give 'directions' to the management if he is satisfied that the management, accommodation for, or treatment of, the children is endangering their welfare. The issue of directions is regarded as a rather drastic step – it can be enforced only by an order of the court closing the home [in the marginalia – Smyllum Orphanage] – and in practice control over the homes is exercised through advice tendered to the management either by the inspectors on their visits or by correspondence. There have been no recent cases in Scotland of the issue of directions. A case last year looked like getting to the stage for the issue of directions but the management towed the line without this step being necessary.¹²⁷

In consequence of the earlier concerns, and the DHS and SED draft Regulations, the SHD's Under-Secretary sought informally the view of the Clyde Committee on Homeless Children. The Committee had been established in April 1945 to correspond to the Committee on the same subject appointed in England.¹²⁸ The Committee agreed with the SHD's Under-Secretary that the Secretary of State could be placed in an "unenviable position" and suggested that, following precedent within the 1937 Act for those subject to a Probation Bond with a condition of residential provision,

inspect voluntary homes, see TNA T162/361, letter, P. J. Rose, Assistant Under Secretary, Scottish Office, 14 Nov. 1934. At appointment Hewitson Brown was said to have had 'exceptional experience in social service' and became Secretary to the Scottish Juvenile Welfare and After-Care Office in 1943 (Deputy Secretary since 1938). During World War One, as a Sergeant-Major and later Captain, he served in the Highland Field Ambulance Service, having originally enrolled as a medical student at Edinburgh University. In the 1930s he was Vice-Chair of the Edinburgh Union of Boys Clubs, see *Scotsman*, 'Among the boys: Merchiston Club visit', 29 April 1937, and 'Juvenile welfare in Scotland', 2 April 1938.

¹²⁶ NRS ED11/180, SHD memorandum on Inquiry into methods of provision for homeless children, December 1944, at SGV-000067158, p.261.

¹²⁷ NRS ED11/180, SHD minute (possibly C. C. Cunningham, Deputy Secretary), c.2 December 1944, at SGV*000067158, pp156-157.

¹²⁸ *Hansard*, "[Boarded-out Children and Mentally Deficient Persons](#)", 7 March 1945, 2030w; *Scotsman*, "Children who lack parental care", 20 April 1945.

no child or young person should be placed in an institution which was not subject to inspection.¹²⁹

The subsequent revision of the draft by the DHS and SED amended the rule that covered children's homes to state that a local authority "may place" a child in an institution which was "subject to inspection by the Secretary of State under the Children and Young Persons (Scotland) Act, 1937, or the Education (Scotland) Acts", or any other institution "specially approved by the Secretary of State for the purpose of these Rules and Regulations."¹³⁰ The other regulations that concerned children's homes remained as drafted. These included the local authority ensuring that the home was "suited to the particular needs of the child", and that it should receive reports from its officers or members on "the child's health, well-being and behaviour", "the progress of their education" and "any other matters relative to the child's welfare which they consider should be reported".¹³¹

The SHD was brought formally into discussion of the regulations in April 1947 after the agreement (ahead of the introduction of the Children's Bill) that it would assume oversight of local authority services for children either boarded out or placed by local authorities in their children's homes or in voluntary homes.¹³² The three Departments met shortly afterwards to discuss the representations made by the local authorities and their associations.¹³³ In deference to the representations it was agreed that "Departmental inspection" of foster and children's homes "might not be intensive" and that "the main purpose" of the inspection was to ensure "that the local authorities were carrying out their duties."¹³⁴ This included the provision that, if so required by the Secretary of State, a local authority would "remove a child from the

¹²⁹ NRS ED11/167, letter, W. Hewitson Brown, Secretary, the Clyde Committee on Homeless Children, 22 April 1946, at SGV-000061816, p.4; see also, [Cmd. 6911] SHD, *Report of the Committee on Homeless Children*, (1946), recommendation 14, at LEG.001.001.8711. A Probation Bond meant an agreement to receive those on probation under certain conditions of residency for a fee.

¹³⁰ NRS ED11/234, Boarded-out Children, Draft of proposed revised Regulations, c.December 1946, Reg. 23, at SGV-000061815, p.96.

¹³¹ NRS ED11/167, Draft Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1946, Regs. 27 & 31, at SGV-000061816, p.24. These were similar to the Children (Boarding-out, etc.) (Scotland) Rules and Regulations, 1947, Sections 24 & 27, see NRS ED11/234, at SGV-000061815.

¹³² NRS ED11/234, letter, C. Marshall, DHS to A. J. Betts, Administrative Officer, SHD, 14 April 1947, at SGV-000061815, p.2.

¹³³ NRS ED11/234, note of meeting, DHS, SED & SHD, 17 April 1947, at SGV-000061815, pp.135-136. Of the meeting attendees, H. S. Hardy, Assistant Secretary, SED covered children committed to the care of local education authorities as fit persons under the Children and Young Persons (Scotland) Acts, 1932 and 1937; R. Howat, Assistant Secretary, DHS covered children under the Poor Law (Scotland) Acts, 1845 and 1934, including those boarded out; and A. J. Betts, Administrative Officer, SHD covered children's homes registered under the provisions of the Children and Young Persons (Scotland) Acts, 1932 and 1937.

¹³⁴ NRS ED11/234, note of meeting, DHS, SED & SHD, 17 April 1947, at SGV-000061815, p.135.

care of a foster parent or from an institution in which he had been placed.”¹³⁵ At a further meeting with the Association of County Councils the principal issue discussed covered the frequency of inspection by local authority members and officers, as well as the foster child’s medical officer, rather than the detail of regulations covering the foster care provided, the supply of clothing, the quality of accommodation, discipline, and the care provided in children’s homes.¹³⁶ The draft was adjusted to meet the Association’s concern on local authority inspection of homes, and the Secretary of State approved the Regulations in August 1947.¹³⁷ In recognition of the SHD’s concerns, the Explanatory Note attached to the Regulations stated that it had laid down “the conditions under which children and young persons who are not suitable for boarding out, may be placed in institutions.”¹³⁸

The 1947 Regulations were concerned essentially with those children who were the responsibility of the local authority. They covered those who were boarded out in private homes and children’s homes, whether owned by the local authority or managed by voluntary bodies.¹³⁹ The explicit inclusion within the Regulations of voluntary homes effectively meant that the SHD’s inspectors could assess the quality of care provided to local authority children within the terms of those Regulations—even if it was no more than ensuring that the local authority was “carrying out their duties.”¹⁴⁰ If they were not carrying out their duties the Secretary of State could insist that the child was removed and placed in another home or in foster care. By implication they also enabled the SHD’s inspectors to assess the quality of care provided to non-local authority children within such homes.¹⁴¹ As the SHD’s Under-

¹³⁵ NRS ED11/234, Draft Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1947 Reg. 31, at SGV-000061815, p.43. This regulation was added in the revised draft of early 1947 ahead of consultation with local authorities.

¹³⁶ NRS ED11/234, note of meeting, DHS, SED & SHD with the Association of County Councils, 6 May 1947, at SGV-000061815, pp.108-110.

¹³⁷ NRS ED11/234, memorandum, SHD to J. Westwood, Secretary of State, 6 August 1947, and Secretary of State’s minute, 11 August 1947, at SGV-000061815, p.8; Children (Boarding-out, etc.) (Scotland) Rules and Regulations, 1947, at SGV-000061815, pp.14-21. The memorandum was signed by C. C. Cunningham, Deputy Secretary; Sir Norman Duke, Secretary; and Tom Fraser, Joint Parliamentary Under-Secretary of State.

¹³⁸ NRS ED11/234, Children (Boarding-out, etc.) (Scotland) Rules and Regulations, 1947, Explanatory Note, at SGV-000061815, p.21.

¹³⁹ See NRS ED11/254, “Notes on the administration of Children’s Homes (Scotland) Regulations, 1959”, c. 5 May 1959, at SGV-000061837, pp.320-326. The Notes stated that “Regulations governing the administration of Children’s homes have not previously been made in Scotland but the care of children placed in certain homes has been subject to the Children (Boarding-out, etc.) (Scotland) Rules and Regulations, 1947, Part III and IV’.

¹⁴⁰ NRS ED11/234, note of meeting, DHS, SED & SHD, 17 April 1947, at SGV-000061815, p.135.

¹⁴¹ Between 1949 and 1955 eight voluntary homes were closed, the SHD stating that “they were sited mainly in old and unsatisfactory premises”. The extent of any official pressure on the homes because of the conditions was not stated, see NRS ED11/418, letter with attachments, J. S. Munro, Assistant Secretary, Scottish Child Abuse Inquiry – Knowledge and Definition of Child Abuse **34**

Secretary (now the Department's Secretary) had proposed, all homeless children were to be assured of the same minimum care.

Review

The Approved School Regulations, 1933 and the Boarded-out Regulations, 1947, essentially provided a benchmark for the minimum standards of care that were regarded by the SED and SHD as acceptable. For approved schools there was a recognition that prior to 1933 provision generally was "far from satisfactory" and that the regulations should seek to enforce certain standards. These covered the quality of accommodation, training facilities, diet, medical attention, and discipline, with considerable detail of the nature and maximum level of corporal punishment. If a school met the standards, and particularly did not infringe the disciplinary regulations, then it could not be culpable of unsatisfactory care, and hence there was no abuse. Although the detail of the closure of Westhorn is unknown, it is evident that the quality of accommodation and training provided were inadequate.

For children under the care of the local authority, the 1947 Boarding-out Regulations covered the sleeping arrangements (to prevent overcrowding), medical attention, educational provision, the supply of food and clothing, and the form of discipline that a foster parent could use. If the foster home met the standards implied, then, as with approved schools, the foster parents could not be culpable of unsatisfactory care, and hence there was no abuse. The regulations also covered children under the care of local authorities placed in a children's home, but without the detailed prescription applied to foster homes. The implication of the phrase that the local authority should satisfy itself of a child's "health, well-being and behaviour" suggested that the standard of care that was expected in foster homes should be applied to children's home. Thus, if the home's supervisor or matron was not considered suitable, the dormitories were over-crowded, the educational provision fell below that offered in ordinary schools, the medical attention was irregular, the children were supplied with poor food and clothing, and there existed harsh and indiscriminate punishment then the home had failed to reach the standard of care to which children were entitled.¹⁴²

SHD to J. Ross, Assistant Under Secretary of State, Children's Department, Home Office, 3 November 1955.

¹⁴² NRS ED11/234, Children (Boarding-out, etc.) (Scotland) Rules and Regulations, 1947, at SGV-000061815, pp.14-21.

Section 3b: Formalising the Regulations for Children’s Homes and Boarded-Out Children, 1959

This section covers the discussion and decisions that led to the publication of the Administration of Children’s Homes (Scotland) Regulations, 1959, and the Boarding-out of Children (Scotland) Regulations, 1959. It begins with a review of the SHD’s consideration of the report of the Scottish Advisory Committee on Child Care and its recommendations consequent on the Children Act, 1948, for revised regulations for boarded-out children and the issue of regulations for children’s homes. It then details the ministerial support for the draft regulations, and the decision to hold in abeyance their presentation to Parliament. The section accounts the official and ministerial discussion in 1958 when the regulations were further considered, noting the objections raised by the statutory and voluntary bodies. Finally, it assesses the extent to which the regulations redefined the standard of care offered to children.

Section 14 of the Children Act, 1948, empowered the Secretary of State to issue new regulations for children’s homes and boarded-out children. The Secretary of State’s newly formed statutory Scottish Advisory Council on Child Care (SACCC) was remitted to consider and advise on relevant issues concerning children’s homes, boarding out, aftercare, and staff training.¹⁴³ At the same time the Scottish Home Department (the successor to the pre-1939 Scottish Office in matters of child care) was careful to establish the nature of the regulations being considered by the Home Office for England and Wales.¹⁴⁴

The SACCC submitted four reports in February 1950, one each on children’s homes, boarding out, aftercare, and staff training.¹⁴⁵ The SACCC’s Homes Report, with 48 recommendations, was effectively a memorandum and guidance on the standard of care that each home should provide.¹⁴⁶ In the covering note of the existing standard of care the Report explained that as a result of visits to a number of homes and the general evidence it concluded that:

While we saw nothing to cause us grave concern, conditions were in some cases worse than we had expected and often could have been considerably improved

¹⁴³ NRS ED11/424, minutes of the first meeting, Scottish Advisory Council on Child Care, 22 April 1948, at SGV-000067506, pp.83-84.

¹⁴⁴ NRS ED11/305, letter, H.M. Rowe, Assistant Secretary, SHD to G.H. McConnell, Assistant Secretary, Children’s Department, Home Office, 15 October 1948, at SGV-000061820, pp.23-24.

¹⁴⁵ NRS ED11/424, reports, Scottish Advisory Council on Child Care, February 1950, at SGV-000067506, pp.3-82.

¹⁴⁶ See NRS ED11/253 for a published copy of the *Report of the Homes Committee of the Scottish Advisory Council on Child Care, 1950*, at SGV-000061819, pp.43-73. There were a further 17 recommendations on reception homes which SACCC wished to see established in Scotland.

at no great cost. Lack of money was not the only cause of low standards where they existed, and we formed the opinion that the right perception of child care on the part of the local authority or voluntary organisation responsible for the home, given effect to in the home by a trained staff with a love of children and an aptitude for child care work, would do more than anything else to make the home satisfactory.¹⁴⁷

The Report endorsed the earlier Clyde Committee Report on homeless children and recommended that to avoid institutionalisation no home should accommodate more than 30 children and, where possible, that dormitories should be sub-divided into smaller rooms. It was particularly concerned about the level of overcrowding in the majority of homes as it believed that this lowered "the general standard of care" provided.¹⁴⁸ In consequence, it once again recommended that, once more homes were provided, there should be "a standard of space...prescribed and adhered to" with "50 square feet of floor space for each bed with a space of not less than six feet between bed centres."¹⁴⁹

The Report also noted considerable variation in bathrooms and W.C. facilities and recommended minimum standards for each. On the provision and quality of staff, the report of a visit to one cottage style home where 26 children were being looked after by a housemother and a young trainee stated that:

It is clear that an inadequate staff must lead to neglect of some part of the care and training which the children require, to the overworking of the children [in domestic duties], or to the overworking of the existing staff, with an inevitable falling-off in the standard of their work, and consequent loss to the happiness and well-being of the children.¹⁵⁰

At a time of post-war rationing, it recognised the difficulties in knowing what supplies would be available on a day-to-day basis, but recommended that homes should set out a daily diet sheet to monitor the meals actually taken. Comments were made also on the lack of provision for recreational activities in a number of homes. Medical care (now under the NHS) was thought "generally satisfactory", but the Report recommended that greater attention to the provision of dental treatment was required.¹⁵¹ The Report was equally concerned over the employment of children on domestic duties, and recommended that whilst some such duties would be usual

¹⁴⁷ NRS ED11/253 *Report of the Homes Committee of the Scottish Advisory Council on Child Care, 1950*, p.5, at SGV-000061819, p.47.

¹⁴⁸ *Homes Committee Report*, pp.5-6, at SGV-000061819, pp.47-48.

¹⁴⁹ *Homes Committee Report*, p.6, at SGV-000061819, p.48.

¹⁵⁰ *Homes Committee Report*, p.9, at SGV-000061819, p.51.

¹⁵¹ *Homes Committee Report*, p.13, at SGV-000061819, p.55.

within families, the amount of time a child was required to undertake domestic work should be carefully prescribed, especially where it covered scrubbing and polishing floors. These concerns were repeated where a home retained a child beyond school-leaving age (then 15) for domestic service. It noted that:

In a number of homes, particularly of the larger institutional type, it is the practice to keep children in the home, after they have reached school leaving age, to help with the domestic work of the home. This is regarded as a service to be expected of the child in return for the care given during childhood...In one large home it is a condition of admission that the child will remain until sixteen years of age, the period after school leaving age being taken up in domestic work. We understand that another large home regards the continuance of the practice as essential for the running of the institution.¹⁵²

The Report made no comment on the use and regulation of corporal or other punishment at homes.

The SHD noted that the Report would be published and that the Home Office was likely to publish regulations concerning children's homes later that year.¹⁵³ At the same time the SHD informed the Home Office that it had reserved its position on publishing regulations for Scotland, stating that:

In view of the difficulties of giving effect to the committee's recommendations particularly in regard to standards of accommodation and staffing standards, we feel that any regulations to be made would require to be in somewhat general terms, leaving the Secretary of State with a fairly wide discretion in regard to exemptions from particular regulations.¹⁵⁴

The Report on Boarding-out recommended a number of amendments to the 1947 Boarding-out Regulations to tighten administrative procedures.¹⁵⁵ These included a recommendation that a medical examination should take place within a month of a child being placed in a foster home, and thereafter at six-monthly intervals, with one of these taking place at the foster home.¹⁵⁶ The Report made no comment on diet, nor on discipline as contained within the Schedule attached to the 1947 Regulations (5f).

¹⁵² *Homes Committee Report*, p.14, at SGV-000061819, p.56.

¹⁵³ NRS ED11/305, letter, T. M. Martin, Principal, SHD to S. H. E. Burley, Children's Division, Home Office, 25 April 1950, at SGV-000061820, pp.11-12.

¹⁵⁴ NRS ED11/305, letter, T. M. Martin, Principal, SHD to S. H. E. Burley, Children's Division, Home Office, 25 April 1950.

¹⁵⁵ NRS ED11/424, draft Report of Committee on Boarding-Out, at SGV-000067506, pp.9-29.

¹⁵⁶ NRS ED11/424, draft Report of Committee on Boarding-Out, appendix 12(2), at SGV-000067506, p.28.

In May 1952 the SHD submitted a minute to Henderson-Stewart, the Joint Parliamentary Under-Secretary of State who held responsibility for childcare on the SACCC.¹⁵⁷ The Council had not met since 1950 and due to deaths and resignations a number of vacancies had occurred. In addition to the recruitment of new members, the SHD indicated that officials had under consideration,

- (a) new boarding-out rules and a memorandum of advice and guidance which might be issued along with them;
- (b) regulations for children's homes and a memorandum of guidance for issue along with them; and
- (c) the curriculum for the Housemothers' training course¹⁵⁸

The minute indicated that a draft of the rules and regulations would be submitted to ministers for approval before consideration by the SACCC. Henderson-Stewart accepted the advice and in the following November was informed that:

For their first task, it is proposed that the Council should consider a draft memorandum on boarding out, of which a copy is attached. The draft contains nothing that is not recognised as desirable practice by local authorities whose standard of boarding out is good, but certain of the suggestions go somewhat beyond the present day practice of a number of local authorities in Scotland. It is intended that the Memorandum should be thoroughly considered by the Council, on which there is a strong local authority representation and some parts of it may, in the light of the Council's discussion, have to be modified.

New Boarding Out Regulations (of which a tentative draft is attached) will be framed after the Council have considered the draft Memorandum. Thereafter the Council will be asked to consider a Memorandum of Children's Homes, at present at the first draft stage, which will be submitted to you before it is put to the Council.

If you agree, a copy of the draft Memorandum will be sent at once to each member of the Council.¹⁵⁹

Henderson-Stewart approved the draft memorandum on boarding out and agreed to speak at the SACCC meeting arranged for later in December.¹⁶⁰ The Secretary of

¹⁵⁷ NRS ED11/428, minute, Sir Charles Cunningham, Secretary, SHD, 8 May 1952, at SGV.00.008.4811-4813.

¹⁵⁸ NRS ED11/428, minute, Sir Charles Cunningham, Secretary, SHD, 8 May 1952 at SGV.00.008.4812.

¹⁵⁹ NRS ED11/428, minute, Henderson-Stewart, 12 May, at SGV.001.008.4813, and minute, Sir Charles Cunningham, Secretary, SHD, 19 November, at SGV.001.008.4794, the latter enclosing "Draft memorandum on boarding out for consideration of the Council", November 1952, at SGV.001.008.4779-4790.

¹⁶⁰ NRS ED11/428, minute, Henderson-Stewart, 21 November 1952, at SGV.001.008.4792, and SACCC minutes of meeting, 12 December 1952, at SGV.001.008.4773-4775.

State, James Stuart, had already approved the Council's new membership (with strengthened local authority representation) and that, after an absence of two years, it should meet again.¹⁶¹

The SACCC considered the issues surrounding the draft Regulations for both children's homes and boarding out, with provisional agreement reached on clarifying a number of outstanding issues by 1955.¹⁶² By that time the attitude of the SHD towards the introduction of regulations for children's homes and boarding out had hardened. After an incident in Glasgow in 1952 where a boarded-out child had died the SHD noted that it was "not our experience that boarding out arrangements can safely be left to the discretion of local authorities."¹⁶³ One of the SHD's Child Care Inspectors had reported that the medical procedures contained within the 1947 Regulations for visiting the child had not been followed.¹⁶⁴ Equally during 1954 there had been some concern over the adequacy of medical examination within children's homes, and the obligation within the 1947 Regulations of a local authority to inspect any home where it sent its children.¹⁶⁵ The SHD's reluctance to seek ministerial support for the drafts was influenced by two further factors. First, officials had been hesitant to begin discussion with the local authority associations "when certain local authorities were obstructing inspection" of their records.¹⁶⁶ Second, officials were aware that a new regime of central/local government relations would emerge as a result of the enactment of the Local Government and Miscellaneous Financial Provision (Scotland) Bill which would abolish the existing system of specific grants, including the grant for the care and welfare of children and young persons, and replace it with a general grant for all but a few services. The Bill contained provision

¹⁶¹ NRS ED11/428, minute, James Stuart, 15 October 1952, at SGV.001.008.4796.

¹⁶² NRS ED11/252, minutes, J. S. Munro, Assistant Secretary, 20 December 1955, & W. S. Kerr, Principal, SHD, 9 December 1957, at SGV.001.008.3921. Further consideration had been delayed by a proposed alteration in local authority grants which would have impacted on the respective accountability for child care provision between local authorities and the Secretary of State.

¹⁶³ NRS ED11/246, minute, W. S. Kerr, Principal, SHD, 22 February 1954; see also minute of same official, 25 November, and letter to R. H. K. Knott, Children's Department, Home Office, 19 December 1953.

¹⁶⁴ NRS ED11/246, letter, W. S. Kerr, Principal, SHD to Glasgow's Children's Officer, 8 January 1954.

¹⁶⁵ NRS ED11/252, letter, I. L. Sharp, Assistant Principal, SHD, to G. F. Belfour, Principal, DHS, 22 December 1954, at SGV.001.008.4048; and see follow up SHD consideration of the issue, minutes, W. Hewitson Brown, Chief Inspector, Child Care and Probation, SHD, 8 September 1955, at SGV.001.008.3910; W. S. Kerr, Principal, SHD, 23 September, and N. D. Walker, Assistant Secretary, SHD, 24 September 1955, SGV.001.008.3913-3914. In homes managed by local authorities on behalf of the SHD the Child Care Inspectors had been able to secure notification of a child's serious illness, accident or death but not those run by voluntary organisations. Hewitson Brown became Chief Inspector, Child Care and Probation after the passage of the Children Act, 1948, a position he held until retirement in 1958.

¹⁶⁶ NRS ED11/252, minute, W. S. Kerr, Principal, SHD, 12 December 1957, at SGV.001.008.3950-3952; see also NRS ED11/248, letter, J. S. Munro, Assistant Secretary, SHD to Lord Advocate's Department, 24 February 1959, at SGV-000061818, p.110.

to reduce the general grant where services were deemed inadequate, and to prescribe standards of administration.¹⁶⁷

Subsequently, disturbances at Glasgow's Lochburn Girls Home in September 1958, led the Secretary of State, Jack S. Maclay, to direct that the SHD Child Care Inspectorate undertake a 'closer vigilance' of residential homes.¹⁶⁸ As the SHD Principal whose brief covered childcare noted on the then ongoing discussions "about the affairs of one Home", the draft children's homes regulations dealt with methods of punishment and indirectly on securing more adequate staffing, but added, "They do not deal with diet – nor with restrictions on or censoring of inmates' correspondence – nor with holidays or recreation. They do not provide for any classification and segregation of young persons e.g. in a moral training home."¹⁶⁹

The new policy towards children's homes and the earlier death of a fostered Argyll child resulted in the SHD bringing forward the children's homes and boarding out draft regulations for official and ministerial consideration.¹⁷⁰ The draft on children's homes covered the provision of medical care that included examination of a child on admission and then at least on an annual basis in addition to "the provision of such medical attention" for each child "as may be necessary".¹⁷¹ In terms of punishment the draft echoed the 1933 Approved School Regulations stating that "[t]he discipline of the home shall be maintained by the personal influence of the person in charge" and that, except for the use of corporal punishment, "a child whom it is necessary to punish for misconduct shall be punished only by a temporary loss of recreation or privileges. Neither solitary confinement nor the withholding of food or drink shall be used as a punishment."¹⁷² Any punishment administered was required to be recorded in a log book. The draft included regulations for the use of corporal punishment,

¹⁶⁷ NRS ED11/252, minute, W. S. Kerr, Principal, SHD, 12 December 1957, at SGV.001.008.3950-3952; TNA CAB134/2159 LC(57)074 Local Government and Miscellaneous Financial Provisions (Scotland) Bill, 22 November 1957, clause 3(1) and (2). Application of this power was dependent on a resolution being passed by the House of Commons, see clause 3(3).

¹⁶⁸ NRS ED11/291, minute, J. C. Shiels, Higher Executive Office, SHD, 3 October 1958; see also NRS ED11/247, SHD minute, A. B. Hume, Under-Secretary, SHD, 17 October 1958. Maclay was Secretary of State from January 1957 to June 1962.

¹⁶⁹ NRS ED11/253, minute, W. S. Kerr, Principal, SHD, 25 September 1958, at SGV-000061819, p.2; NRS ED11/252, draft Regulations, January 1958, at SGV.001.008.3930-3942; see also comment by a parent on correspondence with their daughter in *Glasgow Herald*, "Girls again leave Home: break-out during Home Department Inquiry", 19 September 1958, and by girls on diet, *Glasgow Herald*, "Eight Girls from Home charged with breach of the peace", 20 September 1958.

¹⁷⁰ NRS ED11/253, minute, A. B. Hume, Under-Secretary, SHD, 26 September 1958, at SGV-000061819, p.3.

¹⁷¹ NRS ED11/252, draft Regulations, Reg. 7(v) & (vi), January 1958, at SGV.001.008.3932-3933.

¹⁷² NRS ED11/252, draft Regulations, Reg. 10(1) & (2), January 1958, at SGV.001.008.3936. The Principal who covered the SHD child care branch commented that there had been "a suggestion" that children "were sometimes shut in a room by themselves and that food was reduced or withheld as a punishment", see NRS ED11/253, minute, W. S. Kerr, Principal, SHD, 29 September 1958.

which were required to conform to the rules of the “administering authority”.¹⁷³ Specifically, the draft stated that it was prohibited to inflict “corporal punishment on a girl over 10 years of age or on a boy over the age at which he is no longer required to attend school”, using “anything except the bare hand in punishing a child under 10 years of age”, and prohibiting “the striking of any child on the head.”¹⁷⁴ In addition, it was prohibited to use “corporal punishment on a girl except by a woman” and that no corporal punishment should “be inflicted in the presence of another child.”¹⁷⁵ Finally, it stated that “[n]o corporal punishment shall be inflicted without the sanction of the medical officer for the home on a child known to have any physical or mental disability.”¹⁷⁶ On dormitory accommodation, the 1958 draft incorporated the SACCC recommendation that there should be “not less than 50 square feet of floor space for each bed and an interval not less than 6 feet between the centres of the beds.”¹⁷⁷ The draft, again reflecting the 1950 SACCC Report, stated that “[n]o child who has attained school leaving age shall remain in a home for the purposes of employment within the home without the consent of the Secretary of State.”¹⁷⁸ An SHD official had commented on the latter’s rationale:

This is aimed at institutional homes which have a habit of keeping young people for domestic work for a year or two after they leave school “to pay back”. The Widowers’ Home at Corstorphine is an example. These are valuable years which should be spent in training, if possible, under an apprenticeship.¹⁷⁹

The draft included a provision that the Secretary of State should be informed of the death of any child within the home and that details of the death should be supplied.¹⁸⁰ It also covered a provision enabling the Secretary of State to give directions to a voluntary home “prohibiting” the use of certain clothing specified in the directions.¹⁸¹ This had been included to prevent homes from issuing clothes which could identify a child in the community. Additionally, in the draft’s attached schedule it was stated that: “Records of the food provided for the children accommodated in the home in sufficient detail to enable any person inspecting the

¹⁷³ NRS ED11/252, draft Regulations, Reg. 11(1)(a), January 1958, at SGV.001.008.3934.

¹⁷⁴ NRS ED11/252, draft Regulations, Reg. 11(1)(b), January 1958, at SGV.001.008.3934.

¹⁷⁵ NRS ED11/252, draft Regulations, Reg. 11(1)(c), January 1958, at SGV.001.008.3934.

¹⁷⁶ NRS ED11/252, draft Regulations, Reg. 11(1)(d), January 1958, at SGV.001.008.3934.

¹⁷⁷ NRS ED11/252, draft Regulations, Reg. 4, January 1958, at SGV.001.008.3930; Administration of Children’s Homes (Scotland) Regulations, September 1955.

¹⁷⁸ NRS ED11/252, draft Regulations, Reg. 13, January 1958, at SGV.001.008.3937.

¹⁷⁹ NRS ED11/252, minute, W. S. Kerr, Principal, SHD, 31 July 1958, at SGV.001.008.3925; see also comment by W. Hannan, MP, on the Lochburn disturbance, *Glasgow Herald*, “Maryhill Girls School closed”, 26 October 1958.

¹⁸⁰ NRS ED11/252, draft Regulations, Reg. 18, January 1958, at SGV.001.008.3938-3939.

¹⁸¹ NRS ED11/252, draft Regulations, Reg. 14, January 1958, at SGV.001.008.3938. The Lochburn uniform was a blue dress and white apron, see *Western Mail*, “Girls in mass break-out”, 18 September 1958.

records to judge whether the dietary is satisfactory.”¹⁸² Other than a general statement that the home should be run on the principle that it “will secure the well-being of the children in the home”, nothing in the draft gave directions on recreation, or the classification and segregation of children.¹⁸³

In a detailed minute on the draft prepared by the administrative division responsible for child care, the Under-Secretary who held oversight of the division noted that he was unhappy with proposed penalties following the contravention or failure to follow certain regulations,

on further reflection I should be disposed to omit this [draft regulation 17] altogether. It is very difficult to think of any circs. in which a v.h. [voluntary home] management would be prosecuted for a breach of the regulations. The real sanction is the power to strike the house off the register. It would be a slackening confession of weakness if we let things reach such a step in any house that the criminal authorities had to prosecute.¹⁸⁴

Subsequently the Under-Secretary met the division’s Assistant Secretary and Principal who covered child care, together with the Chief Inspector, Child Care and Probation to discuss the draft regulations. At that occasion the Under-Secretary decided against the draft Regulation permitting only the use of the light tawse on children upward from 10 years of age.¹⁸⁵ The same Under-Secretary then minuted the SHD’s Secretary as follows:

The Home Secretary has exercised his corresponding powers by making Children’s Homes Regulations in 1951 and Boarding-out Regulations in 1955. No regulations have yet been made in Scotland. Boarding out and the placing of children in institutions continue to be governed by the Boarding-out, etc. Rules and Regulations, 1947.

There has been much discussion on the past ten years of what might go into the two sets of regulations. The Advisory Council on Child Care appointed Committees on Boarding-out and on Homes which published reports in 1950; and since then they have made a number of recommendations about the content of regulations. Other Departments (particularly D.H.S. & S.E.D.) have

¹⁸² NRS ED11/252, draft Regulations, Schedule 3, January 1958, at SGV.001.008.3943.

¹⁸³ NRS ED11/252, draft Regulations, Reg. 1, January 1958, at SGV.001.008.3930.

¹⁸⁴ NRS ED11/253, minute, A. B. Hume, Under-Secretary, SHD, 30 September 1958, at SGV-000061819, p.4; Subsection 31(2) of the Children 1948 Act stated that the offender would be “liable on summary conviction to a fine not exceeding fifty pounds.”

¹⁸⁵ NRS ED11/253, minute, W. S. Kerr, Principal, SHD, 15 October 1958, at SGV-000061819, p.5; a ban on the “formidable strap” had been proposed by the then SHD Secretary in 1952, see NRS 11/513, minute, Sir Charles Cunningham, 14 February 1952.

been consulted, and L.A.D [Lord Advocate's Department] have advised on a number of legal issues.

Recent experience has emphasised the need to promulgate new codes. The Dugald Johnstone case disclosed the vulnerability of Secretary of State to criticism so long as under the 1947 regulations he retains power to direct the removal of a child from the care of a foster-parent or from a home, ultimately assuming a measure of direct responsibility for the welfare of each child. The Lochburn Home occurrences disclosed gaps in the Secretary of State's powers in relation to Homes which can be filled by regulations giving him power to obtain information and issue directions.

When specific child care grant cease to be payable (next May) it will be even more necessary to have the duties of local authorities, and the powers of the Secretary of State, clearly defined. Regulations on these two subjects would do much towards this end.¹⁸⁶

The SHD's Secretary noted the minute and agreed that the draft should be circulated to local authorities and the leading voluntary organisations for comment, ahead of formal submission for approval to the Joint Parliamentary Under-Secretary of State and the Secretary of State.¹⁸⁷ Both ministers, Niall Macpherson and Jack Maclay, were informed that the draft had been issued to the relevant authorities and organisations, and that once the replies had been received and considered it would be submitted for their approval.¹⁸⁸ The officials were aware that William Hannan, the Glasgow MP whose constituency covered Lochburn, had been informed that the Secretary of State would seek to introduce the regulations as soon as possible.¹⁸⁹ The MP had initially sought to raise the outbreak of disturbance in the House of Commons. Under existing Parliamentary procedure, once the Secretary of State approved the Regulations they would fall to be made by statutory instrument, and be subject in Parliament to negative resolution procedure. The MP appeared to be assured that new regulations were in the process of being submitted for Parliamentary approval.

By early December the SHD had received comments from external organisations, as well as other Government departments.¹⁹⁰ Quarriers sought clarification on the draft Regulation that the Secretary of State could direct a voluntary home "not to have

¹⁸⁶ NRS ED11/247, minute, A. B. Hume, Under-Secretary, SHD, 17 October 1958, at SGV.001.008.3799-3800; for the position in Argyll see *Hansard*, "Boarded Out Children", 29 April 1958, pp.177-178.

¹⁸⁷ NRS ED11/247, minute, Sir William Murrie, Secretary, SHD, 20 October 1958, at SGV.001.008.3801.

¹⁸⁸ NRS ED11/487, submission, Sir William Murrie, Secretary, SHD, 27 Oct 1958.

¹⁸⁹ *Hansard*, "Voluntary Homes and Hostels", 27 January 1959, pp.871-873. No date is given when Hannan was informed that new regulations were under consideration, but it seems likely to have been at the end of October 1958.

¹⁹⁰ NRS ED11/254, minute, W. S. Kerr, Principal, SHD, overing summary of responses, 10 December 1958, at SGV-000061837, p.5.

uniform" clothes for its children, and assurances that those over the school-leaving age who were apprenticed within the institution could remain in residence, the SHD recording:

Quarriers Homes are asking for guidance. Some of the children retained after age 16 are apprenticed with tradesmen on their establishment and some girls are on domestic duties until they are ready to leave the Home.¹⁹¹

On discipline the SED noted that the draft Regulation implied that boys, aged ten to 15, could be open to unlimited corporal punishment, an issue which the Convention of Royal Burghs raised.¹⁹² The SED suggested that instead of the phrase 'bare hand' for children under the age of ten, 'open hand' should be substituted. The Church of Scotland argued that the draft discipline regulation was unreasonable, the SHD recording:

The Church of Scotland would like to have provision for more serious offences to be recorded together with the punishment inflicted but to leave aside lesser forms of naughtiness that could be difficult to define.¹⁹³

Macpherson also expressed his concerns with the draft discipline Regulation, certainly as it affected voluntary homes, commenting:

At first sight it does not seem to me that regulation 11 is either reasonable or enforceable. Surely this is a matter which should be left to the discretion of the authority and the ordinary law of the land. Schools are not tied down in this way, and I see no reason whatever why voluntary homes should be. I apprehend that this provision is more likely to lead to trouble – and some ridicule – than otherwise. It seems to conflict with the wisdom of Solomon!¹⁹⁴

The SHD replied by indicating that the draft was in line with the advice of the SACCC, and that, apart from the Church of Scotland, no other voluntary body had raised objections.¹⁹⁵ It added that there was

a danger that the voluntary body administering a home may leave too much to the person in charge, and may not exercise sufficient supervision (cf. Lochburn). It seems desirable to place responsibility for considering the welfare of a child

¹⁹¹ NRS ED11/254, SHD minute covering summary of responses, 10 December 1958, at SGV-000061837, p.284.

¹⁹² NRS ED15/168, letter, J. Kidd, Assistant Secretary, SED, 13 November 1958.

¹⁹³ NRS ED11/254, SHD minute covering summary of responses, 10 December 1958, at SGV-000061837, p.284.

¹⁹⁴ NRS ED11/254, minute, Macpherson, 15 December 1958, at SGV-000061837, p.268. The draft had been sent ahead of a proposed meeting between Macpherson and Hannan.

¹⁹⁵ NRS ED11/254, minute, E. G. Christie, Executive Officer, SHD, 22 December 1958, at SGV-000061837, p.255.

who is proving very difficult firmly on the shoulders of the governing body: otherwise the staff of the home may resort to repression as the only expedient.¹⁹⁶

The Regulations would give the court “something more definite” than the common law of assault in any serious breakdown in care.¹⁹⁷

In response Macpherson accepted that the draft made it clear that the person in charge of the home was responsible solely to the home’s administering authority, and agreed that corporal punishment should be kept “within reasonable limits”, but that the limit set appeared “to be unreasonably restricted and therefore will not be effective.”¹⁹⁸ The SHD replied by indicating that it wished to await the view of the Association of the County Councils.¹⁹⁹ The Association provided a series of “observations” on the draft Regulations, but to the phrase “the administering authority shall specify the persons empowered to administer corporal punishment” recommended that the following should be added: “and the nature of permissible corporal punishment”.²⁰⁰ Such an amendment effectively rejected its detailed prescription. Additionally, it argued that the proposed Children’s Homes Regulations should be applied with discretion to the small local authority and voluntary homes. These included “group family homes”, which usually contained fewer than 12 children, and where the foster parents were mainly dependent for a living on payments received for the care of the children.²⁰¹ Group family homes had been established as an experiment following a recommendation of SACCC in 1950 and were regulated under the Boarding Out Regulations, 1947. The Association also believed that the allocation of space between beds should be 45 square feet as recommended by the Clyde Committee, rather than the 50 square feet as stated by SACCC.

The SHD administrative division that covered childcare later met the Under-Secretary and agreed that the draft discipline Regulation should be restricted to the phrase

¹⁹⁶ NRS ED11/254, minute, E. G. Christie, Executive Officer, SHD, 22 December 1958, at SGV-000061837, p.255.

¹⁹⁷ NRS ED11/254, minute, E. G. Christie, Executive Officer, SHD, 22 December 1958, at SGV-000061837, p.255.

¹⁹⁸ NRS ED11/254, minute, Macpherson, 27 December 1958, at SGV-000061837, p.251.

¹⁹⁹ NRS ED11/254, minute, N. E. Sharp, Principal, SHD (Private Secretary to Sir William Murrie, Secretary, SHD), 30 December 1958, at SGV-000061837, p.50.

²⁰⁰ NRS ED11/254, letter, Association of County Councils in Scotland, observations, section B, Reg. 11, 16 January 1959, at SGV-000061837, p.248. The statistics for 1958 are not available but in 1955 the SHD was aware that a number of County Councils relied solely or principally on voluntary homes for residential provision, if required, see NRS ED11/418, note, A. J. F. Ogilvie, Principal, SHD, “Future Trends: Local Authority and Voluntary Homes Present Position”, 19 July 1955.

²⁰¹ NRS ED11/254, minute, J. C. Shiels, Higher Executive Officer, SHD, covering Association’s letter, 16 January, 27 January 1959, at SGV-000061837, pp.244-248 and 6.

that the administering authority of the home would “specify the persons empowered to administer corporal punishment and the limits of corporal punishment”, but that the proposed regulation on the role of the medical officer sanction would stand.²⁰² The SHD informed Macpherson on the revisions undertaken and stated that

we are now proposing not to include specific prohibitions but to require the administering authority to specify the manner and limits of permissible corporal punishment (as well as the persons empowered to administer it): this is in line also with suggestions made by the County Councils Association. In the latter we have included a definite statement that the person in charge of a voluntary home is to be responsible to the administering authority for the conduct of the home.²⁰³

The SHD rejected the Association’s recommendation on the minimum floor space for each bed (citing the SACCC Report), and re-asserted that the regulations should apply equally to small homes (group family homes) of less than six children. The latter proposed draft Regulation was similar to that in England. However, the SHD deleted the draft Regulation (previously 17) on the probation of ‘certain clothing’ (uniforms) within a voluntary home.²⁰⁴

As indicated above, SACC discussion on the draft Regulations for the boarding out of children had been formalised by the end of 1954, and for several reasons were held in abeyance until September 1958, when the SHD began further discussion of the Regulations for children’s homes.²⁰⁵ The Under-Secretary who held responsibility for child care reviewed the draft, as he had for children’s homes, and made several observations.

The Under-Secretary commented on the requirement for a care authority to notify the Secretary of State within 14 days of a child being fostered by a local authority:

We have to recognise that many local authorities and some voluntary organisations would no doubt contend that, however necessary these requirements were ten years ago, the development of the statutory children service has rendered them unnecessary now. They imply a direct interest by the Department in the welfare of each boarded-out child, and the supervision by the Department of his case. The whole tenor of the Children Act, and the trend of development since it was passed, emphasise that only the placing authority is directly responsible, and that the Secretary of State’s responsibility is limited to

²⁰² NRS ED11/254, minute, W. S. Kerr, Principal, SHD, 18 February 1959, at SGV-000061837, pp.215-216.

²⁰³ NRS ED11/249, minute, A. B. Hume, Under-Secretary, SHD, 19 February 1959, at SGV-000061827, p.93.

²⁰⁴ NRS ED11/254, see replies to the draft Regulation, 24 October 1958, from Edinburgh’s Children Officer who believed that the draft wording was ‘difficult to understand’, at SGV-000061837, p.285; and SHD minute, 7 November 1958, at SGV-000061837, p.2.

²⁰⁵ NRS ED11/247, minute, W. S. Kerr, Principal, SHD, 25 September 1958, at SGV.001.008.3795.

general oversight of the way in which these authorities discharge their responsibilities.²⁰⁶

He added that the draft already included a requirement that a local authority would retain records on each child, and that these would be open for inspection by a "person authorised by the Secretary of State to inspect such".²⁰⁷ SHD officials noted, however, that without a central government record it would not be possible to maintain the Department's "black list of unsatisfactory foster homes".²⁰⁸ In reply, the Under-Secretary reported that "the Secretary of State would not wish to be under duty to maintain the 'black list'".²⁰⁹ The subsequent draft deleted the requirement of a local authority to furnish details of a child's foster home particulars.

The Under-Secretary was equally uncertain of the status of the draft regulation that implied a criminal offence if there was overcrowding in sleeping arrangements, as the breach of no other Regulation carried a criminal penalty.²¹⁰ In support he added

It seems to me that this is not a matter to be dealt with in Regulations carrying the force of law, but is essentially the kind of question which should be dealt with by a memorandum of advice to the responsible authorities, and perhaps in a statement of principles issued to the foster parents. I am fortified in this view by the fact that we do not in the Regulations try to deal with any other equally essential requirement, such as the provision of adequate food, the availability of bathing facilities, etc.²¹¹

The SHD child care division responded by accepting that the draft Regulations did not "give the force of law to other essentials such as diet, washing facilities, etc.", but that,

²⁰⁶ NRS ED11/247, minute, A. B. Hume, Under-Secretary, SHD, on draft Regulations, Reg. 17(4), 29 September 1958, at SGV.001.008.3796.

²⁰⁷ NRS ED11/247, draft Regulations, Reg. 17(5), before amendment as Section 17(4), 24 October 1958.

²⁰⁸ NRS ED11/247, note of meeting, A. B. Hume, Under-Secretary, J. S. Munro, Assistant Secretary, W.K. Kerr, Principal, & W. Hewitson Brown, Chief Inspector, Child Care and Probations, SHD, held on 8 October 1958, at SGV.001.008.3798. It is not clear precisely what was meant by a "black list" of foster homes, except that the SHD was informed by local authorities when and where a child was fostered, and when they were removed. It is presumed that the Department was informed of the removal of a child from home deemed as unsatisfactory by the local authority, and hence the address would be entered into the central register.

²⁰⁹ NRS ED11/247, note of meeting of SHD officials (as above) held on 8 October 1958, at SGV.001.008.3798.

²¹⁰ NRS ED11/247, minute, A. B. Hume, Under-Secretary, SHD, on draft Regulation 5(1)(b), 29 September 1958, at SGV.001.008.3796.

²¹¹ NRS ED11/247, minute, A. B. Hume, Under-Secretary, SHD, on draft Regulation 5(1)(b), 29 September 1958, at SGV.001.008.3796.

there are local authorities in Scotland who place children in sub-standard foster homes, generally with relatives willing to do the job for a smaller fee. The [Child Care] Inspectors' biggest worries have been over shared bedrooms, shared beds, poor water supply from distant pumps or streams and poor sanitation. That is why these particular items were selected for mention in the Regulations.²¹²

The amended draft Regulations deleted any reference to overcrowding and the sanctions that they implied.²¹³

The SACCC had considered the issue of the notification of the death, serious illness, or accident of a fostered child and proposed amending the earlier 1947 Boarding-out regulations by inserting that—in addition to the local authority informing the natural parent or guardian of the event—it would also notify the Secretary of State.²¹⁴ On re-considering the draft Regulations in 1958, the SHD further stipulated that the foster parent should notify the care authority if a child died, or deserted the foster home, or suffered an illness or injury “likely to result in death or a serious disability.”²¹⁵ The draft was supplemented by a requirement that the care authority was to “supply the Secretary of State such further information about the circumstances of the occurrence as he may require.”²¹⁶ This requirement would meet the criticism implied in the general management of cases such as the death of the Argyll fostered child.²¹⁷ The 1947 Regulations had omitted the necessity for a local authority to inform the Secretary of State on the death or injury of a fostered child.

The response of the local authorities and voluntary associations to the draft Boarding-out Regulations was considerably less critical than to the draft Homes Regulations with comments relating mostly to the administrative elements of the regulations.²¹⁸ In light of these comments the SHD draft Regulation on medical attendance, which was to consist of three GP examinations (within one month, six months, and 12 months of a child being fostered), was reduced to two (one month and 12 months), with neither examination necessarily taking place in the foster home (the original draft Regulation had been a recommendation of SACCC, see above).²¹⁹

²¹² NRS ED11/247, minute, W. S. Kerr, Principal, SHD, 30 September 1958, at SGV.001.008.3797.

²¹³ NRS ED11/247, draft Regulations, 24 October 1958, at SGV.001.008.3815-3824.

²¹⁴ NRS ED11/246, SACCC minutes, 26 November 1954, enclosing draft Regulations. The earlier draft had not included a reference to the Secretary of State, minutes, 24 September 1954, at SGV00006187, p.55. The minutes give no indication of the reasons for the amendment.

²¹⁵ NRS ED11/247, draft Regulations, Reg. 15(1), 24 October 1958, at SGV.001.008.3820.

²¹⁶ NRS ED11/247, draft Regulations, Reg. 15(2), 24 October 1958, at SGV.001.008.3820.

²¹⁷ *Hansard*, Adjournment debate, “Dugald Johnstone”, 22 April 1958, 912-22.

²¹⁸ NRS ED11/248, SHD minute summarising responses, n.d., but before 5 February 1959.

²¹⁹ NRS ED11/249, submission, A. B. Hume, Under Secretary, SHD, 19 February 1959, at SGV-000061827, pp.93-96; Boarding Out Regulations, Amendments of Substance, Reg. 12(2), at SGV-000061827, p.65.

It also altered the draft Regulation on foster home accommodation to delete any reference to overcrowding, again relying on the local authority to perform its duty under the Children Act, 1948.²²⁰

The SHD submission to the Joint Parliamentary Under-Secretary of State, Macpherson, confirmed that the earlier drafts of both the Boarding-out and Homes Regulations had been revised in light of the local authorities and voluntary organisation comments, but specifically added that:

We hope that your criticisms of the previous draft of the Homes Regulations have been met by the amendment of Regulation 11 and Regulation 16. In the former we are now proposing not to include specific prohibitions but to require the administering authority to specify the manner and limits of permissible corporal punishment (as well as the persons empowered to administer it): this is in line with suggestions made by the County Councils Association. In the latter we have included a definite statement that the person in charge of a voluntary home is to be responsible to the administering authority for the conduct of the home.²²¹

The submission then re-affirmed the SHD's preference that minimum floor space for each bed within children's homes should be 50 square feet as recommended by SACCC in 1950, as opposed to the County Councils Association proposal for 45 square feet, principally on the basis that it had been nine years since the SACCC recommendation. It noted also that the County Councils Association had sought to exclude from the draft Regulations group family homes accommodating not more than six children, but the SHD argued that the draft did "not seem to be inappropriate" (the Association was evidently content that the Regulation should apply to homes of more than six children).²²² The SHD reported that only a few had been established (Argyllshire was noted as a Council that had established such homes). In support of its recommendation the SHD argued that:

We are disposed to think that the experiment should now be brought to an end and that these Homes should be subjected to the Homes Regulations. This would involve the local authority taking over the premises and employing the persons in charge. In practice, however, local authorities have tended to move towards this arrangement; it has been found for example that the person in charge cannot be sufficiently recompensed by the normal boarding-out allowances, and payments have been made towards the rent and rates of her

²²⁰ NRS ED11/249, submission, A. B. Hume, Under-Secretary, SHD, 19 February 1959, at SGV-000061827, pp.93-96; Boarding Out Regulations, Amendments of Substance, Reg. 6, at SGV-000061827, p.63.

²²¹ NRS ED11/249, submission, A. B. Hume, Under Secretary, SHD, 19 February 1959, at SGV-000061827, p.93.

²²² NRS ED11/249, submission, A. B. Hume, Under Secretary, SHD, 19 February 1959, at SGV-000061827, p.94.

house. We understand that in England small homes of this kind are subject to the Homes Regulations (which do not differ greatly from our draft) and that no serious difficulties are encountered.²²³

Macpherson responded with a seven-page minute, which included endorsing the County Councils Association on the position of group family homes.²²⁴ Quoting from the Children and Young Person (Scotland) Act, 1937, section 96, the Minister noted that it limited the definition of a voluntary home to "a home or other voluntary institution supported wholly or partly by voluntary subscriptions", and, as such, it excluded households.²²⁵ He then commented that:

The principle that should guide us throughout in both these sets of Regulations is that the person or institution in charge of the children should be permitted the greatest amount of discretion and initiative compatible with the welfare of the children and with the [1948] Act. A person looking after less than six [children] should obviously not be subjected to the rules in exactly the same way as an institution. The provisions of the Children Act itself should suffice. The restriction of discretion where avoidable inevitably weakens sense of responsibility in the foster-parent and works to the disadvantage of the foster-child.²²⁶

Subsequent to the minute Macpherson met the SHD's Under-Secretary responsible for child care and approved the draft Homes Regulations and the Boarding-out Regulations as submitted. The Minister agreed that "family group homes" should be phased out.²²⁷ He also agreed, "with considerable reluctance", the recommendation that the minimum floor space per bed in a children's home should be 50 square feet.²²⁸ After the meeting, in discussion with the Assistant Secretary whose division covered child care, the Under-Secretary decided to propose an amendment to the now agreed draft Regulations and recommend 45 square feet, minuting that:

Not only was this the space recommended by the Clyde Committee, but it is apparently the minimum laid down by S.E.D. for establishments comparable to Children's Homes. I understood from the Chief [Child Care] Inspector's comments when we last discussed this that many of our Scottish Children's Homes could not at present conform to the 50 sq. ft. minimum. [The Chief Inspector, Child Care and Probation] is, of course, right in stressing the need to

²²³ NRS ED11/249, submission, A. B. Hume, Under Secretary, 19 February 1959, SHD, at SGV-000061827, p.96.

²²⁴ NRS ED11/487, minute, Macpherson, 28 February 1959, at SGV-000061828, pp.38-45.

²²⁵ NRS ED11/487, minute, Macpherson, 28 February 1959, at SGV-000061828, p.38.

²²⁶ NRS ED11/487, minute, Macpherson, 28 February 1959, at SGV-000061828, p.39.

²²⁷ NRS ED11/248, minute, A. B. Hume, Under-Secretary, SHD, 6 March 1959, at SGV-000061818, p.97. Macpherson expressed concern that a County Council such as Argyll might seek to subvert the Regulations on group family homes by classifying them as school hostels, which the Under-Secretary indicated would be negated by further amendment to the Regulations, see minute, 28 February 1958.

²²⁸ NRS ED11/254, minute, A. B. Hume, Under-Secretary, SHD, 26 March 1959, at SGV-000061837, p.11.

make regulations which can reasonably by [sic] enforced immediately; but it would be impossible to apply a 50 sq. ft. minimum rigorously when that would result in a substantial loss of accommodation in our Children's Homes.²²⁹

The Regulations for Homes and Boarding-out were formally approved by Macpherson and Maclay in May 1959.²³⁰ The Regulations were accompanied by notes that described the intention of each of the regulatory sections. It stated that the 1947 Boarding-out Regulations on overcrowding had been revoked, indicating that the Secretary of State was

confident that local authorities and voluntary organisations can be relied on to exercise a proper discretion as to the number of children who may be in a foster home, especially the number of young children, remembering that the ages of the children in any household should be such that it conforms to the shape of a natural family.²³¹

It also noted that there was no provision in the Regulations for the continuation of "group foster homes" where the foster parents were mainly dependent for a living on payments received for the care of the children, and that the local authority should either bring them within the scope of the Boarding-out or the Children's Homes Regulations.²³² It further noted that whilst care authorities were to satisfy themselves of the suitability of the foster home and household, it was not specified in the Regulations (as it had been in the 1947 Boarding-out Regulations) that they should take into account the number of children in the home, educational facilities in the district (having regard to their needs), and the environment of the home, though it was assumed that the care authority would.²³³ Local authorities and voluntary organisations were informed that the SHD would discontinue its Central Register because the Regulations no longer required the authorities to report each occasion that a child was boarded out. Instead the notes stated that "the co-operation of local authorities will be requested when information about such children is required by the Department."²³⁴

²²⁹ NRS ED11/254, minute, A. B. Hume, Under-Secretary, SHD, 26 March 1959, at SGV-000061837, p.11.

²³⁰ NRS ED11/249, minutes, Macpherson, 4 May & Maclay, 5 May 1959, covering SHD submissions, 28 April, 1 & 5 May 1959; see also *Hansard*, "Children (Voluntary Homes)", 12 May 1959, 1027.

²³¹ NRS ED11/248, "Notes on the Boarding-out of Children (Scotland) Regulations, 1959", c.5 May 1959, para 8, at SGV-000061818, pp.15-16.

²³² NRS ED11/248, "Notes on the Boarding-out of Children (Scotland) Regulations, 1959", c.5 May 1959, para 5, at SGV-000061818, p.15.

²³³ NRS ED11/248, "Notes on the Boarding-out of Children (Scotland) Regulations, 1959", c.5 May 1959, para 9, at SGV-000061818, p.16.

²³⁴ NRS ED11/248, "Notes on the Boarding-out of Children (Scotland) Regulations, 1959", c.5 May 1959, para 22, at SGV-000061818, p.17.

The issue of the Boarding-out Regulations and accompanying notes was followed by the publication of a Memorandum on the Boarding-out of Children.²³⁵ Its purpose was to set out in more detail the recommendations of the 1950 SACCC report, and “help towards the attainment of a uniform standard of good boarding-out throughout Scotland”.²³⁶ A specimen set of principles that local authorities should consider was attached as an appendix which included sections on a child’s health, medical attention, education, recreation, and training. The section on health covered sleeping accommodation (including the need to refer to the local authority where children shared beds), clothing, and the prevention of accidents. The section on training included a note on discipline, which restated the 1947 Boarding-out Regulations, but with added text on misconduct:

The child should not be punished harshly or indiscriminately *and the threat of removal from his foster-home should in no circumstances be used as a punishment for misconduct*. Foster-parents should report persistent misconduct to the children’s officer.²³⁷

The notes that accompanied the Children’s Homes Regulations stated that information on the accommodation and staffing of any home was to be furnished on request to the Secretary of State.²³⁸ Given the variation in the size of homes and age range of children the notes did not specify staff ratios. It was assumed that the administering authorities would keep such in mind when considering the home’s capacity. The notes also stated that without the prior consent of the Secretary of State no child should be retained for employment on reaching the school-leaving age.²³⁹ Equally it stated that the Secretary of State should be informed where a child suffered any serious illness or injury, or had run away, or had been taken unlawfully from the home.²⁴⁰ In part-recognition of the Lochburn disturbance the notes added:

²³⁵ NRS ED11/487, SHD, “Memorandum on the Boarding-out of Children”, May 1959, at SGV-000061828, pp.11-32. The Joint Parliamentary Under-Secretary of State, Macpherson, expressed his appreciation of the SHD’s work on the memorandum, and also that on Children’s Homes, see NRS ED11/514, minute, A. B. Hume, Under-Secretary, SHD, 19 June 1959.

²³⁶ NRS ED11/487, SHD, “Memorandum on the Boarding-out of Children”, May 1959, para 1, at SGV-000061828, p.13.

²³⁷ NRS ED11/487, SHD, “Memorandum on the Boarding-out of Children”, May 1959, Appendix, emphasis added, at SGV-000061828, p.28.

²³⁸ NRS ED11/254, “Notes on the administration of Children’s Homes (Scotland) Regulations, 1959”, c.5 May 1959, para 3, at SGV-000061837, p.45.

²³⁹ NRS ED11/254, “Notes on the administration of Children’s Homes (Scotland) Regulations, 1959”, c.5 May 1959, para 12, at SGV-000061837, p.46.

²⁴⁰ NRS ED11/254, “Notes on the administration of Children’s Homes (Scotland) Regulations, 1959”, c.5 May 1959, para 13, para 12, at SGV-000061837, p.46. The notification of short absences was left at the discretion of the administering authority.

The administering authority are to send to the Secretary of State, on request, information about the facilities provided for visits to the children in a Voluntary Home by their parents or guardians and about the sending and receiving of letters. The Secretary of State is empowered to give directions about providing such facilities.²⁴¹

A memorandum on children's homes was subsequently published which outlined the "general principles" to be followed in the care of children and act as a "useful compendium of advice".²⁴² It commented that where there were too many children and too few staff (and hence a lack of attention to each child), discipline was likely to be strict and the child's "normal development to maturity" was "bound to be hindered."²⁴³

In May 1959, as the SHD acknowledged to Macpherson:

Ever since the Children Act was brought into operation ten years ago more stringent requirements have been in force in England; and the recommendation we are now implementing [on boarding-out] was made to us by the Scottish Advisory Council on Child Care about four years ago.²⁴⁴

There were two significant factors affecting the delay in the regulations for both children's homes and children boarded-out. First, it was accepted that many children's homes, especially those in the voluntary sector, could not meet SACCC's recommended space requirements for sleeping accommodation—and the level of grant aid to support capital investment in voluntary homes was limited. Although the SHD annual expenditure agreed by Parliament in 1949-50 had set the budget to assist the improvement of homes at £20,000, only £2,310 had been authorised, and the estimate was reduced to £13,000 the following year.²⁴⁵ The Vote continued to fall and in 1952-53—during the first year of the new Government—it was £3,500, an estimate that was maintained until 1955-56.²⁴⁶

²⁴¹ NRS ED11/254, "Notes on the administration of Children's Homes (Scotland) Regulations, 1959", c.5 May 1959, para 17, para 12, at SGV-000061837, p.46.

²⁴² NRS ED 15/168, SHD, "Memorandum on Children's Homes", 1959, at SGV-000061841, p.41. It followed the general principles outlined in the earlier SACCC report of 1950; see also NRS ED11/487, submissions, Sir William Murrie, Secretary, SHD on the Memorandum to Macpherson, 8 May & 1 June 1959, the latter where the Minister was informed that it attempted "to bring together the main lessons learned from experience during the past ten years".

²⁴³ NRS ED15/168, SHD, 'Memorandum on Children's Homes', 1959, para 23, at SGV-000061841, p.48.

²⁴⁴ NRS ED11/487, submission, N. E. Sharp, SHD (Private Secretary to Sir William Murrie, Secretary, SHD), to Macpherson's Private Secretary, 1 May 1959, at SGV-000061828, p.34.

²⁴⁵ TNA T165/388, "Blue Notes, Scottish Home Department, 1955-56", 12. The annual expenditure was termed the Vote.

²⁴⁶ TNA T165/388, "Blue Notes, Scottish Home Department, 1955-56", 12; & T165/103, 'Blue Notes, Child Care, Scotland, 1960', 6.

Second, the care authorities—local authorities and voluntary organisations—despite being represented on SACCC, held differing views to those of the SHD on notions of acceptable levels of care. As they were the primary providers of that care, they believed their views held a degree of authority.²⁴⁷ Whilst the SHD had some success in governing the use of child labour within voluntary homes, it withdrew the proposed regulation on uniforms and was less successful where the regulations covered a home's disciplinary regime. Certainly, the introduction of a log book to record punishments indicated a desire to alert governing bodies to excesses or irregularities, but the deletion of the draft proposals on permissible corporal punishment left the issue of tolerable levels to judicial process—if such was ever instigated. When informed of the objections to the draft Homes Regulations the SHD Child Care division's Assistant Secretary minuted,

there are special dangers in what the Americans term "mass congregate care" - the growth of ill practices within separate communities such as are found in the larger homes: harsh punishment becoming part of a tradition...A regulation safeguards the child against harsh treatment, and protects the superintendent who administers a reasonable punishment from a charge of cruelty or assault.²⁴⁸

Whilst the process of securing approval for the Boarding-out Regulations appeared to raise fewer issues of outright contention, the SHD found opposition to SACCC's recommendations on medical examination and on overcrowding—though it secured an end to group foster homes, as well as the requirement to report to the Secretary of State on incidents of misadventure. The new Regulations assumed local authorities would build on their post- Children Act, 1948, experience of suitable forms of foster care and where there were concerns would follow the advice contained within the Regulations' associated notes and memorandum, if not from the SHD's Child Care Inspectors.

Review

The revised regulations for boarded-out children and children's homes underwent a long gestation period from the provisions contained within the Children Act, 1948. Under that Act, the revised regulations required Parliamentary approval. The initial concern of local authorities that ministerial oversight might perhaps lead to official direction in the organisation of child care provision gave way to sustained objection from voluntary organisations, especially the Church of Scotland, who managed a number of children's homes. Macpherson and ultimately Maclay accepted the

²⁴⁷ See also, NRS ED11/487, SHD minute on answers to possible supplementary questions on Macpherson's statement to Parliament on the Regulations, c.12 May 1959, at SGV-000061828, p.5; *Hansard*, "Children (Voluntary Homes)", 12 May 1959, 1027.

²⁴⁸ NRS ED11/513, minute, W. S. Kerr, Principal, SHD, 17 December 1958, at SGV.001.008.4817.

objections and retreated from the proposed punishment regulations. Equally ministers retreated from the SACCC's proposal to enable more dormitory space for each child. If the managing authority gave approval for the use of corporal punishment, and it was used within its prescribed rules and logged, then its use by the designated member of staff could not be considered abuse. Additionally, if the managing authority kept the dormitory accommodation at the prescribed level, then there was no overcrowding. The regulations that did incorporate the SACCC's recommendations included preventing the retention of a child in a children's home for employment on reaching the school-leaving age, providing better and easy access to sanitary accommodation, enabling access by the SHD to records to assess whether the dietary was satisfactory, and limiting the number accommodated in a voluntary home. The latter reflected the SHD's concern on "mass congregate care"—a criticism of the "ill-practices" and "harsh treatment" that it believed could exist in such institutions. In addition, the Department secured the provision of a log book for the personal history of each child, and the appointment of a medical officer to supervise the health of the children, provide the home with advice on hygiene, and examine each child on admission and at regular intervals. Thus, a home could be considered unsatisfactory if it was not managed in accordance with these detailed regulations, a certain advance from the provisions contained with the 1947 Boarding-out Regulations. In that sense the SHD had secured a higher benchmark to assess children's homes, if not children boarded out.

Section 3c: The Approved Schools (Scotland) Rules, 1961

This section covers discussion and decisions that led to publication of the Approved Schools (Scotland) Rules, 1961. It begins in 1948 with the SED's consideration of a report from the Scottish Advisory Council on Child Care (SACCC) and the Scottish Advisory Council on the Treatment and Rehabilitation of Offenders (SACTRO), as well as the Select Committee on the Estimates on Approved Schools, and their criticism of current institutional provision. It then discusses the SED's preparation of new approved school regulations, which covered education and training, discipline, and recreation, and the opposition from approved school managers that the changes entailed. The section reviews the impetus for the resubmission of the proposals in the late 1950s which stemmed from issues of the maintenance of the control of pupils and the view of the SED on the necessity to introduce rules based on "modern ideas" of child development. It ends with the political decision of ministers in the light of the objection of the approved school managers to support only a limited amendment of the rules on discipline.

In 1948, in anticipation of new regulations for children voluntary homes, the SED began its internal discussion of their potential impact on approved schools, noting that where approved schools were voluntary homes, as the majority were, the care and training regulations for approved schools should take precedent.²⁴⁹ The following year the SED learnt that the Home Office had issued new care and training regulations for English approved schools, but the Department decided to await the publication of the SACCC's report on voluntary homes, before beginning its discussion of the revision of the 1933 Scottish regulations.²⁵⁰ The Department decided also that consideration of the children's homes and approved school regulations should "be considered simultaneously".²⁵¹

The publication of the SACCC's report on voluntary homes corresponded with the Home Office seeking information from the SED on its proposals to amend the discipline and punishment sections of the Care and Training Regulations, 1933.²⁵² The Department had been developing a list of possible amendments since before the

²⁴⁹ NRS ED15/278, minute, especially para c, P. G. Brewer, Principal, SED, 13 May 1948, at SGV-000067165, pp.2-3.

²⁵⁰ NRS ED15/278, minutes, J. H. Renwick, Executive Officer, SED, 14 June & P. G. Brewer, Principal, SED, 23 November 1949, at SGV-000067165, pp.16-17.

²⁵¹ NRS ED15/278, minute, J. H. Renwick, Executive Officer, SED, 14 June 1949, at SGV-000067165, pp.16-17.

²⁵² NRS ED15/278, minutes, R. A. Dingwall-Smith, Principal, SED, 1 April & H. S. Hardy, Assistant Secretary, SED, 3 April 1950, at SGV-000067165, p.27.

War.²⁵³ It was already aware that the Home Secretary had established a departmental inquiry into the discipline regulations that covered prisons, borstals and approved schools in England and Wales.²⁵⁴ In light of the publication of SACC's report, the 1949 Home Office Care and Training Regulations, and the latter's departmental inquiry, the SED agreed that its officials (and H.M. Inspector of Schools) should meet the headteachers of the approved schools to discuss future developments, including the Scottish Care and Training Regulations.²⁵⁵

Subsequently, the new Joint Parliamentary Under-Secretary of State, Peggy Herbison, accepted that the Select Committee on Estimates on Approved Schools had been particularly critical of the quality of Scottish provision.²⁵⁶ She also noted that an earlier report by SACTRO on approved schools had sought the introduction of a classifying school for boys—to improve pupil allocation on the basis of a "diagnostic" assessment of their needs to secure a more appropriate care and training programme—similar to that established in England.²⁵⁷ The SACTRO report had criticised the lack of staff who could undertake "diagnostic tests" of children which would be necessary to establish a classifying school.²⁵⁸ It also reported that weaknesses remained in educational provision and in "practical" schemes of training.²⁵⁹ The same Minister later agreed that the SED should proceed with "exploratory and preparatory work" on the matter of a classifying school, and that an educational psychologist should be appointed to assist with any scheme of classification.²⁶⁰

The SED approached the meeting with the headteachers in June 1951 on the basis that an inter-denominational classifying school should be established.²⁶¹ Its principal

²⁵³ NRS ED15/278, SED minute, 9 June 1949, at SGV-000067165, p.16. Additions were made until April 1951.

²⁵⁴ NRS ED15/278, minute, R. A. Dingwall-Smith, Principal, SED, 1 April 1950, at SGV-000067165, p.27.

²⁵⁵ NRS ED15/278, minutes, P. G. Brewer, Principal, SED, 23 November 1949, at SGV-000067165, p.17; F. M. M. Gray, Principal, SED, 5 April 1950, at SGV-000067165, pp.27-28.

²⁵⁶ Herbison was Joint Parliamentary Under-Secretary from March 1950 to October 1951. As part of a re-arrangement of Joint Parliamentary Under-Secretary of State duties, she had assumed Fraser's responsibility for child care.

²⁵⁷ See *Hansard*, "Approved Schools", 5 February 1950, 1567-1568, "Boys' School, Liberton (Conditions)", 5 February 1950, 1568-9, & NRS ED15/137, SED notes for meeting with heads of schools, 21 June 1951, at SGV-000067162, p.179-186; a copy of the SACTRO report can be found in NRS ED15/151.

²⁵⁸ NRS ED15/137, minutes, H. S. Hardy, Assistant Secretary, SED, 6 January 1949 & P. G. Brewer, Principal, SED, 18 January 1950, at SGV-000067162, pp.115-118.

²⁵⁹ NRS ED15/137, minutes, H. S. Hardy, Assistant Secretary, SED, 6 January 1949 & P. G. Brewer, Principal, SED, 18 January 1950, pp.115-118.

²⁶⁰ NRS ED15/137, minute of meeting, 9 February 1951, at SGV-000067162, pp.138-139.

²⁶¹ NRS ED15/137, SED notes for meeting with heads of schools, 21 June 1951, at SGV-000067162, p.179-186. The Joint Parliamentary Under-Secretary of State had been informed of the meeting and its purpose, see, minute, 13 June 1951.

purpose was to provide a "diagnosis" of "a child's circumstances, symptoms and needs" and allocate "the child to the school...most nearly corresponding to his needs".²⁶² To facilitate the assessment of the pupils the SED announced that the educational psychologist would aim to give "guidance" to headteachers "in particular cases of difficulty" and co-ordinate with the existing local authority services.²⁶³ On the punishment regulations, its notes ahead of the meeting stressed that whilst corporal punishment of girls was within the discretion afforded to the headmistress, its "exercise should rarely be necessary".²⁶⁴ In addition, the notes added that the corporal punishment of girls over the age of 15 would require "exceptionally sound reasons" for its use, which when reported in the punishment returns, might lead to SED inquiry.²⁶⁵

The reaction of the headteachers to the proposed classifying school was mixed, and indicated a preference for the continuation of the pre-trial and remand home systems of assessment, though the appointment of an educational psychologist was welcomed.²⁶⁶ On the punishment regulations, there was no comment on the regulations that affected girls, though in the case of the corporal punishment of boys clarification was sought on its delegation by a headmaster to any certified teacher. The SED reaction was to stress that

the climate of opinion in this matter tended to favour restriction rather than extension of corporal punishment and that the Department were not anxious to invite too much publicity to the existing rules such as they would receive if a proposal for a modification of them was laid before Parliament.²⁶⁷

Subsequent to the meeting the SED began consideration of the Scottish 1933 Care and Training Regulations. At this stage, whilst it was contemplated that a school's dietary should be more closely prescribed, the discipline and punishment regulations were restated as in 1933.²⁶⁸

²⁶² NRS ED15/137, SED notes for meeting with heads of schools, 21 June 1951, at SGV-000067162, p.179-186.

²⁶³ NRS ED15/137, SED notes for meeting with heads of schools, 21 June 1951, at SGV-000067162, p.179-186.

²⁶⁴ NRS ED15/137, SED notes for meeting with heads of schools, 21 June 1951 at SGV-000067162, p.179-186.

²⁶⁵ NRS ED15/137, SED notes for meeting with heads of schools, 21 June 1951 at SGV-000067162, p.179-186.

²⁶⁶ NRS ED15/278, minutes, meeting, SED & heads of schools, 21 June 1951, at SGV-000067165, pp.35-42. W. F. Arbuckle, Assistant Secretary, SED, chaired the meeting. Other SED representatives included J. A. McPherson, H.M. Inspector of Schools, and F. M. M. Gray, Principal.

²⁶⁷ NRS ED15/278, minutes, para V, meeting, SED & heads of schools, 21 June 1951, at SGV-000067165, p.41.

²⁶⁸ NRS ED15/278, "Revision of Care and Training Regulations", at SGV-000067165, pp.53-103. It would appear that discussion began in September 1951, with the final item, a note of the Home Office's

In response to the earlier concerns on educational provision the SED reviewed the Regulations in the context of the English 1949 amending rules. The latter stated that educational provision should be based on the principles of the 1944 Education Act

so as to secure efficient full-time primary or secondary education suitable to the age, ability and aptitude of each individual boy while of compulsory school age and his further education thereafter as long as he remains in the school.²⁶⁹

The SED also reviewed the more detailed statement in the English 1949 rules on “practical training”, which were, as “far as practicable”, to be linked to a pupil’s “preparation for a particular form of employment”.²⁷⁰ By comparison the SED noted that the Scottish 1933 Regulations were confined to the statement that the scheme of education and training was to be submitted to the Department for its approval.

SED officials also considered the English 1949 rules on recreation, which began with a statement that, “adequate provision” should “be made for free time and recreation” and continued that “if a cadet contingent is maintained at the school, enlistment” should “not be compulsory and training or drill” should “not be used as a means of enforcing school discipline.”²⁷¹ By contrast the Scottish 1933 Regulations had stated that “reasonable provision” should “be made for free time and recreation”—with no statement on the issue of cadet enlistment.²⁷²

The report of the Advisory Council on Education in Scotland’s, *Pupils who are Maladjusted because of Social Handicaps* was published in early 1952.²⁷³ The following year the SED met the Approved Schools Association (the body that represented approved schools) to discuss the report’s recommendations.²⁷⁴ In

disciplinary regulations for girls inserted in July 1954. Under the English rules a school’s dietary scale was subject to the approval of the Home Office’s Chief Inspector of Approved Schools.

²⁶⁹ NRS ED15/278, “Revision of Care and Training Regulations”, c.1951-54, at SGV-000067165, p.66.

²⁷⁰ NRS ED15/278, “Revision of Care and Training Regulations”, c.1951-54, at SGV-000067165, p.66.

²⁷¹ NRS ED15/278, “Revision of Care and Training Regulations”, c.1951-54, at SGV-000067165, p.69.

²⁷² Children and Young persons, Scotland, care and Training Regulations, 1933, Reg. 9

²⁷³ [Cmd. 8428] SED, *Pupils who are maladjusted because of social handicaps, A Report of the Advisory Council on Education in Scotland*, (January 1952), at LEG-000000104.

²⁷⁴ NRS ED15/278, minutes, meeting, SED & Approved Schools Association, 5 November 1953, at SGV-000067165, pp.107-113. Chapter VI of the Advisory Council’s Report covered Approved schools. The meeting was chaired by A. G. Rodger, Assistant Secretary, SED. Other SED representatives included J. A. McPherson, H.M. Inspector of Schools, F. M. M. Gray, Principal, and D. S. Petrie, Educational Psychologist. Petrie was appointed in 1951 to assist “schools with their mental testing techniques” and where he “carried out group intelligence and educational testing”. He became an H.M. Inspector of Schools in 1955 to assist the SED generally where an educational psychologist was required, see [Cmd. 8813] *SED, Education in Scotland in 1952*, p.67; [Cmd. 9722] *SED, Education in Scotland in 1955*, p.78; see also NRS ED15/274, letter, A. G. Rodger, Assistant Secretary, SED to Glasgow’s Director of Education, 19 June 1953, where his precise duties for approved schools were stated. Petrie was a qualified teacher who prior to appointment was Senior Assistant Psychologist at the Edinburgh Child Guidance Clinic, see NRS

discussion on the delegation of the use of corporal punishment to other members of staff, the SED re-iterated the Department's position. One official commented that, "the Approved School child was there under duress, and not only had to be protected, but manifestly so", whilst another stated that there would "always be an individual who would overstep the bounds".²⁷⁵

The SED also raised the possibility of extending recreational activities to include a pupil's involvement with local festivals and other bodies, a matter on which the Advisory Council's report had covered, recommending that:

adequate playing fields and facilities for indoor recreation be provided in all approved schools, that each school endeavour to arrange games and sports with youth organisations and neighbouring schools, and officers in voluntary youth organisations be encouraged to assist in the leisure activities of pupils in approved schools.²⁷⁶

In response to the recommendation the Approved Schools Association appeared apprehensive on the level of co-operation that it could obtain, and were not in favour of inter-approved school competitions.²⁷⁷

The SED wrote to the Association after the meeting to confirm its interpretation of the punishment regulations in so far as it affected delegation beyond the headteacher, but that pending the revision of the regulations the Department would welcome its views.²⁷⁸

At this stage in the review of the 1933 Scottish Care and Training Regulations, the SED had contemplated proposing to the Secretary of State little change in the punishment regulations except that which covered older girls, but with tighter rules on dietary standards and educational provision. The Department's proposal for at least one Scottish classifying school to assess a pupil's psycho-social and educational needs before allocation to specific approved school was held back, partly because of the resistance of headteachers to structural change, and partly because it was believed that the appointment of an educational psychologist would enable assessment beyond that already in existence. It had also sought an extension of

ED15/269, 'Application form', October 1951. The Selection Committee comprised representatives of the SED and the Approved Schools Association, letter, F. M. M. Gray, Principal, SED, 6 November 1951.

²⁷⁵ NRS ED15/278, minutes, meeting, SED & Approved Schools Association, 5 November 1953, at SGV-000067165, pp.107-113.

²⁷⁶ [Cmd. 8428] SED, *Pupils who are maladjusted because of social handicaps, A Report of the Advisory Council on Education in Scotland*, (January 1952), para 206, at LEG-000000104, p.64.

²⁷⁷ NRS ED15/278, minutes, meeting, SED & Approved Schools Association, 5 November 1953, at SGV-000067165, pp.107-113.

²⁷⁸ NRS ED15/278, letter, F. M. M. Gray, Principal, SED, 14 November 1953 at SGV-000067165, pp.114-115.

recreational activities to increase the link between approved schools, other schools and the local community, but met resistance from the Approved Schools Association, which doubted that such links were advantageous to their schools' management.

In 1955 the SED confirmed by a circular to approved school managers that the Secretary of State would not press the issue of a classifying school for boys. The Department noted that the 23 Scottish schools were already divided by sex, age and religion, and as a result of the classification, were further divided into 11 categories and that,

[w]here there is a choice [for a pupil] and the possible schools are differentiated in certain features (e.g. vocational courses or suitability for pupils of particular mental capacities) some quite different factor relating to the pupil's background (e.g. geographical location of home and school) often indicates that only one school would be suitable.²⁷⁹

Instead the SED indicated that it would continue to utilise its educational psychologist who, in fact, saw

all committal papers for pupils on admission and is available either for immediate consultation in cases which present difficulties or to see new entrants when he next visits their school. His investigations and advise assist the staffs *inter alia* in arranging appropriate class instruction for pupils and in suggesting methods of training best suited to their needs.²⁸⁰

It noted that the H.M. Inspector assisted similarly in the committal process by reviewing the "suitability of pupils for particular schools".

The same circular confirmed that the Secretary of State, James Stuart, accepted the recommendation of the SACTRO Report on the need to ensure a wider variety of educational courses for older girls and "practical training should embrace subjects of greater educational and vocational value" in boys schools.²⁸¹ It also confirmed acceptance of the Advisory Council on Education in Scotland *Pupils who are Maladjusted* Report's recommendation on the extension of "purposeful recreation". On dietary the SED stated that "comprehensive advice" would be provided by the H.M. Inspector (School Meals Service) and "by the means of circulars". Beyond the

²⁷⁹ NRS ED15/137, SED, *Approved Schools; Reports of Advisory Councils*, Circular 317, 13 October 1955, at SGV-000067162, p.208.

²⁸⁰ NRS ED15/137, SED, *Approved Schools; Reports of Advisory Councils*, Circular 317, 13 October, 1955, at SGV-000067162, p.209.

²⁸¹ NRS ED15/137, SED, *Approved Schools; Reports of Advisory Councils*, Circular 317, 13 October 1955, at SGV-000067162, p.211.

recommendations contained with the circular, the SED confirmed in its 1955 Annual Report that there would be no "major changes in the Approved Schools system".²⁸²

Following Stuart's decision on the 1955 circular formal consideration of the Care and Training Regulations by the SED appears to have been placed in abeyance until September 1958 when, after a spate of boys absconding, Thornly Park sought the Department's "earnest consideration" to alter the punishment regulations.²⁸³ The school sought amendment to permit a pupil's detention in "isolation" for a period longer than the six hours which the 1933 Regulations permitted.²⁸⁴ Its Director's specifically stated that they felt

the powers of punishment (other than corporal punishment) conferred on the Headmaster are no longer sufficiently wide or severe to enable the type of boy who nowadays is being committed to the Institutions to be effectively controlled.²⁸⁵

In response to the request the H.M. Inspector of Schools suggested that the matter should be discussed further (though he thought that Thornly Park was making "much ado" about their "present troubles").²⁸⁶ He had noted that the English Regulations permitted a longer period of detention in isolation (24 hours) for such pupils, and that the Home Office was "experimenting" with "confinement blocks" for the persistent absconder.²⁸⁷ The Thornly Park request was followed a month later by a similar request from Wellington.²⁸⁸ The school indicated that it was seeking to convert a record store into a detention cell and obviate the Regulation by recommitting a pupil sent to the cell after a short interval.²⁸⁹ Both Schools were informed that their "views" had been noted, with Thornly Park being informed later that there was likely to be some delay in revising the Regulations due to "the present pressure of work", and the necessity to obtain Parliamentary approval.²⁹⁰ A few months later the H.M. Inspector of Schools learnt that Rossie, like Wellington, was also considering setting apart a detention room for absconders, and urged that the

²⁸² [Cmd. 9722] *SED: Education in Scotland in 1955. A report of the secretary of state for Scotland*, (April 1956), p.78, at LEG-000000125, p.103.

²⁸³ NRS ED15/278, letter, Thornly Park School, 24 September 1958, at SGV-000067165, p.121.

²⁸⁴ NRS ED15/278, letter, Thornly Park School, 24 September 1958, at SGV-000067165, p.121.

²⁸⁵ NRS ED15/278, letter, Thornly Park School, 24 September 1958, at SGV-000067165, p.121.

²⁸⁶ NRS ED15/278, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 9 October 1958, at SGV-000067165, pp.123-124.

²⁸⁷ NRS ED15/278, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 9 October 1958, at SGV-000067165, pp.123-124.

²⁸⁸ NRS ED15/278, letter, Wellington School, 23 October 1958, at SGV-000067165, pp.125-126.

²⁸⁹ NRS ED15/278, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 4 December 1958, at SGV-000067165, pp.127-128.

²⁹⁰ NRS ED15/278, letters, W. M. Morrison, Principal, SED, 12 January & 27 February 1959, at SGV-000067165, pp.132-133, 136-137.

Regulations should “be changed as soon as possible”, and followed the recommendation up by stating that

[the] door [of a detention room] should preferably be of metal, the light should be high up in the ceiling & protected by a grille, the windows have to be secured by bars & there must be nothing in the room which can be used to damage the inmate.²⁹¹

The statement effectively re-stated an earlier SED decision in response to “unruly behaviour” at Dr Guthrie’s Girls School to support the conversion of an apple store into a detention room with similar structural features.²⁹²

In response to these requests the SED began consultation with the Approved Schools Association and the Approved Schools Staff Association on the issue of detention and related matters of school management. At a meeting with the Associations in February 1960 the SED agreed that it would seek to amend the Regulations to permit isolation in a detention room for up to 24 hours (the number of rooms for each school dependent on its size), and outside of the Regulations the SED would consider a separate school for “difficult pupils”.²⁹³

Further discussion on the proposals was effectively overtaken by the Home Office’s publication of the report into the Carlton approved school (the Durand Report) in January 1960.²⁹⁴ This led the Home Secretary (Rab Butler) to confirm that legislation was likely to be introduced to cover the report’s recommendations and other issues of juvenile delinquency, which the SED interpreted would lead to the introduction of a criminal justice bill.²⁹⁵ As a result of these developments the SED agreed that it should consult the Approved Schools Association on the Carlton report and its implications for Scotland, especially as it became clear that separate Scottish

²⁹¹ NRS ED15/278, minutes, J. A. McPherson, H.M. Inspector of Schools, SED, 18 May & 7 June 1959 at SGV-000067165, p.138.

²⁹² NRS ED15/278, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 4 December 1958 at SGV-000067165, pp.127-128.

²⁹³ NRS ED15/278, minute of meeting, SED and Approved School Association, 3 February 1960, at SGV-000067165, pp.152-157. The detention of a pupil beyond 24 hours would require the approval of the school’s managers and reported to the SED. SED representatives during discussion of detention policy were J. A. M. Mitchell, Assistant Secretary, W. M. Morrison, Principal, and the HM Inspector of Schools, J. A. McPherson and D. S. Petrie.

²⁹⁴ [Cmnd. 937] Home Office, *Disturbances at the Carlton Approved School on 29th and 30th August 1959; Report of Inquiry by Mr. Victor Durand, Q.C.*, (January 1960), at LEG-000000128. There had been a series of disturbances with damage to the school’s property, a “mass breakout”, and attacks on staff, but the Inquiry found evidence the boys had been subject to irregular punishment, including slaps on the face.

²⁹⁵ NRS ED15/364, minute, J. A. M. Mitchell, Assistant Secretary, SED, 10 February 1960, at SGV-000067202, pp.3-5.

legislation would follow that for England.²⁹⁶ At the SED's meeting with the Association it was agreed that a "special section" (not a "closed block" with all the connotations that might arise) should be established at Rossie Boys Approved School to cater for persistent absconders, those presenting disciplinary problems, and "to meet the needs of the highly disturbed".²⁹⁷ Such did not require legislation, but required the consent of the Secretary of State due to the costs involved.²⁹⁸ Similarly, the previous approved schools' request to establish secure rooms for the "temporary supervision" of pupils did not require legislation, but the consent of the Secretary of State for an amendment to the Care and Training Regulations.²⁹⁹

In August 1960 the SED submitted its proposals on approved schools to the Joint Parliamentary Under-Secretary of State, Niall Macpherson, which included those arising out of the Carlton report. The Minister was informed that the proposed special section at Rossie for 25 boys over the age of 13 did not require legislation, but that this and the addition of isolation rooms in other schools would require amendment to the Regulations.³⁰⁰ The SED's proposals endorsed the use of isolation rooms for the detention of "disturbed pupils" for up to 24 hours provided that it was "regarded as a 'cooling off period', or as a temporary means of security, rather than as a punishment."³⁰¹ The building or adaptation of an isolation room would be at the school's discretion, though the Department indicated that they should be restricted to senior and intermediate schools, and that it should be informed if a period longer than 24 hours was considered necessary.

On corporal punishment the submission noted that independent of the Carlton report the Approved Schools Association had sought a relaxation of the Regulations to permit its use by class room teachers, as in day-schools. In response to the request the SED informed Macpherson that,

[a]s there have been occasional cases of abuse in the past, and as approved school pupils do not have the same parental protection as day-school pupils, we have thought that present Regulations should not be materially relaxed, except to the extent that Managers might be empowered to delegate power to award corporal punishment to individual teachers other than the head teacher. We also

²⁹⁶ NRS ED15/364, minutes, J. A. M. Mitchell, Assistant Secretary, SED, 23 March 1960, at SGV-000067202, pp.14-16; 3 May 1960, at SGV-000067202, pp.32-33; August, 1959: Report of Inquiry.

²⁹⁷ NRS ED15/364, SED minutes, meeting, 1 June 1960, at SGV-000067202, pp.52-55. J. A. M. Mitchell, Assistant Secretary, SED, led the meeting for the Department

²⁹⁸ NRS ED15/364, SED minute, after 20 June 1960, at SGV-000067202, pp.57-64.

²⁹⁹ NRS ED15/364, SED minute, after 20 June 1960, at SGV-000067202, pp.57-64.

³⁰⁰ NRS ED15/364, submission, W. F. Arbuckle, Secretary, SED, 29 August 1960, at SGV-000067202, pp.124-125.

³⁰¹ NRS ED15/364, submission, W. F. Arbuckle, Secretary, SED, 29 August 1960, at SGV-000067202, p.125.

propose that the Regulations should be amended to preclude the corporal punishment of girls over 15, as in England and Wales.³⁰²

The submission concluded by stating that, apart from the amendments sought as above, the existing Care and Training Regulations were “now in need of revision in a number of respects”, and that it would consult the Approved Schools Association and the Approved Schools Staff Association before submitting a draft for approval.³⁰³

Macpherson agreed that the SED could “go ahead” with its approved school proposals, leaving the new Care and Training Regulations to be considered after consultation with the Associations at a later stage.³⁰⁴

The SED began the revision of the Regulations by reviewing the English Regulations, which to the Department seemed “more explicit” and incorporated “many of the amendments proposed throughout the years”.³⁰⁵ On diet the Assistant Secretary who covered approved schools commented that he had recently visited Dr Guthrie’s Girls and whilst the potatoes for the staff “looked palatable”, those for the girls were “fit for hens”.³⁰⁶ To him at each meal-time one of the staff ought to “partake” in the children’s meals. The H.M. Inspector of Schools took up the issue and suggested that the Scottish rules should follow those in England where the Home Office had issued “a ‘recommended’ table of quantities”.³⁰⁷ He noted also that the English schools kept a menu book for the meals, and that without it any “assessment of the adequacy of the dietary” was “almost impossible”.³⁰⁸ The Department of Health’s medical officer who covered the SED’s responsibilities agreed that approved schools’ staff should share meals with the pupils, stating that “in the ordinary Education Authority schools this” was “usually a good way of securing a fair standard for school meals.”³⁰⁹ He

³⁰² NRS ED15/364, submission, W. F. Arbuckle, Secretary, SED, 29 August 1960, at SGV-000067202, p.126.

³⁰³ NRS ED15/364, submission, W. F. Arbuckle, Secretary, SED, 29 August 1960, at SGV-000067202, pp.127-128.

³⁰⁴ NRS ED15/364, minute, A G. Rodger, Under-Secretary, SED, 6 September 1960 at SGV-000067202, p.129.

³⁰⁵ NRS ED15/367, minute, R. J. Edie, Higher Executive Office, SED, 1 September 1960, at SGV-000061835, p.26. Edie was later appointed Assistant Secretary to the Kilbrandon Inquiry and became a Senior Executive Officer in 1963.

³⁰⁶ NRS ED15/367, minute, N. D. Walker, SED, 21 September 1960, at SGV-000061835, pp.47-48.

³⁰⁷ NRS ED15/367, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 3 October 1960, at SGV-000061835, p.62.

³⁰⁸ NRS ED15/367, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 3 October 1960, at SGV-000061835, p.62.

³⁰⁹ NRS ED15/367, minute, Dr. W. W. Sinclair, Medical Officer, DHS, 6 October 1960, at SGV-000061835, p.65. At the DHS Dr. Sinclair held responsibility for the school health service, see NRS SOE1/185, ‘Department of Health for Scotland: distribution of business, April 1962’. Prior to appointment in 1960 Dr. Sinclair had been the Deputy Medical Officer of Health and Senior Medical Officer, the School Health Service, Fife, see *Dundee Courier*, ‘Appointments by Fife Education Committee, 15 October 1952, & *Fife Herald*, report, 20 October 1954.

agreed similarly with the H.M. Inspector (School Meals Service) and the H.M. Inspector of Schools that a menu book should be kept for inspection to ensure both the standard of content and variety of meals supplied.³¹⁰

The draft regulations on diet, as they emerged from internal SED discussion, stated that approved school managers would be obliged to ensure that pupils were “kept supplied with sufficient, varied, wholesome and appetising food in accordance with a dietary scale adequate for the maintenance of health”, and which would require the H.M. Inspector of Schools approval.³¹¹ The H.M. Inspector (School Meals Service) raised a certain concern on the draft suggesting that such a Regulation might cause difficulty for the schools’ staff and managers, as well as adding to her work.³¹² As an alternative approach she suggested that a memorandum of guidance should be issued. This would cover an adequate and varied diet within reasonable costs, and which the managers “could more or less adopt.”³¹³ The SED agreed to a draft memorandum, but that it would await discussion with the Associations on the draft Regulations before a final decision of a further draft for submission to the Secretary of State (Jack Maclay).³¹⁴

The Under-Secretary who covered approved schools, the Assistant Secretary of the division, and the Principal whose branch covered approved schools met in late October 1960 to discuss proposed amendments to the regulations on corporal punishment.³¹⁵ Initially they considered whether it should be abolished, but “[a]fter weighing up all the pros and cons”, they decided to recommend that it should be permitted for all boys under the age of 15 and four months.³¹⁶ Within the classroom they recommended a maximum of three strokes of the tawse on the hand by the teacher in the classroom. Outside of the classroom it was to be restricted to the headmaster or deputy with a maximum of six strokes of the tawse, with punishment on the posterior to be dropped. For girls they recommended that it should be permitted only in the case of girls under the age of 13. In all cases corporal punishment was to be prohibited in front of other pupils. The draft Regulations issued to the Associations in December 1960 reflected the Department’s

³¹⁰ NRS ED15/367, minute, Dr. W. W. Sinclair, Medical Officer, DHS, 6 October 1960, at SGV-000061835, p.66.

³¹¹ NRS ED15/367, draft Regulation 19, as printed, 16 December 1960, at SGV-000061835, p.255.

³¹² NRS ED15/367, minute, W. M. Morrison, Principal, SED, 22 November 1960, at SGV-000061835, p.159.

³¹³ NRS ED15/367, minute, W. M. Morrison, Principal, SED, 22 November 1960, at SGV-000061835, p.159.

³¹⁴ NRS ED15/367, minute, W. M. Morrison, Principal, SED, 22 November 1960, at SGV-000061835, p.159. The Assistant Secretary thought the memorandum “seems a good idea”, minute, N. D. Walker, 25 November 1960.

³¹⁵ NRS ED15/367, minute, W. M. Morrison, Principal, SED, 27 October 1960, at SGV-000061835, pp.89-90. Attendees at the meeting included Morrison, N. D. Walker, Assistant Secretary, and A. G. Rodger, Under-Secretary.

³¹⁶ NRS ED15/367, minute, W. M. Morrison, Principal, SED, 27 Oct, 1960, at SGV-000061835, p.89.

consideration of the current English rules, the various representations by interested bodies since the Children Act, 1948, and the more recent internal Departmental discussions.³¹⁷ The dietary Rules covered the necessity for its approval by the H.M. Inspector of Schools—the food supplied to pupils was to be sufficient, varied, wholesome and appetising, and adequate for the maintenance of health.³¹⁸ In addition, the schools' records should indicate the amount issued each day for mealtime and the number of pupils receiving meals.³¹⁹ Further, “[a]n ordinary portion of each meal as served to the pupils” was to “be consumed by at least one member of staff.”³²⁰

On education the draft indicated that it should “be such as to secure the efficient full-time education suitable to the age, ability and aptitude of the pupils of compulsory school age and their further education thereafter”, with the time-table and syllabus subject to the approval of the H.M. Inspector of Schools.³²¹ The employment of pupils was to be prohibited for all those under 13 years of age school (other than light work such as a pupil making their own bed), and for those between 13 and 15 years and four months, it was to be restricted to one hour per day.³²² Pupils over that age could be employed, but not if it interfered with their further education, or with their leisure and recreation. Recreation was to be encouraged.³²³

The draft corporal punishment rules followed the discussion of the SED officials noted above, with the proviso that for entry into the school’s punishment book a teacher should inform the headmaster—“without undue delay”—of the use of the tawse in the classroom.³²⁴ Special rules were drafted for the use of a segregation room for pupils who were violent or unmanageable.³²⁵ The room, itself, had to have good natural lighting by day, be kept light at night and have good natural

³¹⁷ NRS ED15/367, draft Approved Schools (Scotland) Rules, 16 December 1960.

³¹⁸ NRS ED15/367, draft Approved Schools (Scotland) Rules, 16 December 1960, Reg. 19(1), at SGV-000061835, p.255.

³¹⁹ NRS ED15/367, draft Approved Schools (Scotland) Rules, 16 December 1960, Reg. 19(2), at SGV-000061835, p.255.

³²⁰ NRS ED15/367, draft Approved Schools (Scotland) Rules, 16 December 1960, Reg. 19(3), at SGV-000061835, p.255.

³²¹ NRS ED15/367, draft Approved Schools (Scotland) Rules, 16 December 1960, Reg. 21, at SGV-000061835, p.255.

³²² NRS ED15/367, draft Approved Schools (Scotland) Rules, 16 December 1960, Reg. 22, at SGV-000061835, p.256.

³²³ NRS ED15/367, draft Approved Schools (Scotland) Rules, 16 December 1960, Reg. 24, at SGV-000061835, p.256.

³²⁴ NRS ED15/367, draft Approved Schools (Scotland) Rules, 16 December 1960, Reg. 32, at SGV-000061835, p.258. The tawse rather than the cane was the usual form of corporal punishment in Scottish schools.

³²⁵ NRS ED15/367, draft Approved Schools (Scotland) Rules, 16 December 1960, Reg. 33 at SGV-000061835, p.259.

ventilation. No pupil under the age of 13 could be so detained, and detention was for a maximum period of 24 hours. If its use was required for the same pupil for longer the school's managers and the SED were to be informed.³²⁶

The Department met the Associations in February 1961, where the Assistant Secretary (the meeting's Chairman) indicated that after 27 years, apart from the proposed increase in a manager's powers of segregation, the draft rules had been revised "in the light of modern ideas".³²⁷ On diet, the H.M. Inspector (School Meals Service) explained the difficulty that the Department had in confirming the dietary scale if a school did not keep records.³²⁸ The managers responded by indicating that the maintenance of records might be regarded as an imposition by their domestic staff and lead to resignations. To emphasise the SED's concern the Assistant Secretary indicated that within the past year the nutritional value of the dietary in one of the schools had been found to be deficient. The meeting agreed that the rule should be amended to ensure that, if requested, the H.M. Inspector of Schools could be assured of the adequacy of the food supplied to the pupils. The draft rule on a member of staff sharing meals with the pupils was deleted after discussion. The managers claimed that it would be seen by staff as an "imposition" that "could not be enforced". The argument of the Assistant Secretary that the rule was primarily intended for the "less-enlightened" school produced the same response.

The Assistant Secretary opened the discussion on corporal punishment with the statement that,

in view of the abolition of punishment in Scottish penal institutions he would find difficulty in putting proposals forward to Ministers which showed no change in a twenty-seven-year old rule. If there had been an advance, it should be possible to reflect it in the rules.³²⁹

In response the managers indicated that they agreed with "the trend" towards the abolition of corporal punishment and were seeking to work to that end, but the

³²⁶ NRS ED15/367, draft Approved Schools (Scotland) Rules, 16 December 1960, Reg. 33(6), at SGV-000061835, p.256.

³²⁷ NRS ED15/368, Note of meeting, the SED, Approved Schools Association (Scotland) and the Scottish Approved Schools Staff Association on the draft Approved Schools (Scotland) rules, 1961, 14 February 1961, at SGV-000061839, p.109. The SED attendees were N. D. Walker, Assistant Secretary, W. N. Morrison, Principal, R. J. Edie, Higher Executive Officer, and the HM Inspectors of Schools, J. A. McPherson and M G. Watts.

³²⁸ NRS ED15/368, Note of meeting, the SED, Approved Schools Association (Scotland) and the Scottish Approved Schools Staff Association on the draft Approved Schools (Scotland) rules, 1961, 14 February 1961, at SGV-000061839, p.112.

³²⁹ NRS ED15/368, Note of meeting, the SED, Approved Schools Association (Scotland) and the Scottish Approved Schools Staff Association on the draft Approved Schools (Scotland) rules, 1961, 14 February 1961, at SGV-000061839, p.113.

different age range in schools meant there would be practical issues in the rule's implementation. The meeting then began a discussion on the differences between a borstal/detention centre and an approved school, where in the former an inmate might lose remission of sentence as a punishment.³³⁰ The minute of the meeting noted that:

The approved schools were said to be quite different from borstals, being much more of a family community. The headmaster in a senior approved school, however, was very much in charge because of his power to punish. Retribution needed to be swift for bullying, violence or the threat of violence; and immediate corporal punishment was the only real remedy. The personal relationship between the boy and the headmaster would stand up under a thrashing but would probably break down under detention centre type of punishment. The stopping of home leave as a punishment could easily put back the work of rehabilitation. A good beating given immediately was far kinder than the stopping of home leave.³³¹

In the light of the representations, the Assistant Secretary agreed to report to ministers the views of both Associations that the existing corporal punishment rules should be maintained.

The SED submission to Richard Brooman-White, the Joint Parliamentary Under-Secretary of State, on the Approved School Rules informed the Minister that his predecessor had agreed that the Department should undertake a revision of the rules which had remained unaltered since 1933.³³² The submission stressed that it was desirable to secure the amendment of the rules before the intended Criminal Justice (Scotland) Bill was introduced as the Government could face criticism in debate as the 1933 rules might appear "somewhat archaic".³³³ The SED then indicated that the only rule that it could not reach agreement with the Associations concerned corporal punishment, and stated in defence of its proposed rule that:

Corporal punishment was abolished some time ago as a sentence of the courts, and as a method of enforcing discipline in penal institutions is allowed only in remand home and English prisons...No form of corporal punishment is permitted in Borstals or Detention Centres, and the Scottish Home Department says that this causes no disciplinary difficulties. On the other hand, the use of the

³³⁰ NRS ED15/368, Note of meeting, the SED, Approved Schools Association (Scotland) and the Scottish Approved Schools Staff Association on the draft Approved Schools (Scotland) rules, 1961, 14 February 1961, at SGV-000061839, p.113.

³³¹ NRS ED15/368, Note of meeting, the SED, Approved Schools Association (Scotland) and the Scottish Approved Schools Staff Association on the draft Approved Schools (Scotland) Rules, 1961, 14 February 1961, at SGV-000061839, p.113.

³³² NRS ED15/368, submission, W. F. Arbuckle, Secretary, SED, 22 March 1961, at SGV-000061839, p.133

³³³ NRS ED15/368, submission, W. F. Arbuckle, Secretary, SED, 22 March 1961, at SGV-000061839, p.133.

tawse on the hand is now an accepted instrument of discipline in the Scottish educational system (of which the Approved Schools are part), although it is not generally considered appropriate in the case of older pupils, especially girls.³³⁴

The submission indicated the opposition of the Association to the proposed rule, which, in its letter to the SED, stated that:

In the first place, it is considered that until the approved numbers to be accommodated in each school are reduced to manageable proportions whereby the Head Teacher and the staff of the school will be in a position to deal with the pupils committed, as individuals and not as groups or even as a mass, as must needs be the case at present, it would not be in the best interests of the school, staff or pupils to attempt to maintain discipline under the new rule...the Association...will make every effort to work toward the desired end provided there is no change in Regulation 31, until some action has been taken on rolls and specialisation.³³⁵

Brooman-White accepted the submission, but on the issue of corporal punishment commented that:

I can't see much importance in the suggestions about the number of strokes or portions of the anatomy. Nor do I feel too worried about not changing our attitude until we have adequate facilities to do better. If we act against the advice of the Approved School Association...and they have trouble, we will feel very silly indeed. I am in favour of [the continuation of the 1933 Rules] and of leaving the present situation alone until the schools are in better shape.³³⁶

The Secretary of State, Jack Maclay, later met Brooman-White, the SED's Secretary, and the Assistant Secretary who covered child care matters where it was noted that:

Ministers stressed the political awkwardness, at the present moment, of changing the present rules in the face of opposition from the Approved Schools Association themselves, although the S. of S. was prepared to give further consideration to minor changes, such as restricting corporal punishment in girls' schools to the junior schools.³³⁷

³³⁴ NRS ED15/368, submission, W. F. Arbuckle, Secretary, SED, 22 March 1961, at SGV-000061839, pp.133-134.

³³⁵ NRS ED15/368, letter, Approved Schools Association (Scotland) to SED, 25 February 1961, at SGV-000061839, pp.99-100; note of Approved Schools' Association (Scotland) reservation, contained within submission, W. F. Arbuckle, Secretary, SED, 22 March 1961, at SGV-000061839, pp.135-136.

³³⁶ NRS ED15/368, minute, Brooman-White, 25 March 1961, at SGV-000061839, p.139.

³³⁷ NRS ED15/368, SED minute after meeting of Jack Maclay, Richard Brooman-White, W. F. Arbuckle, Secretary, SED, and N. D. Walker, Assistant Secretary, SED Child Care Division, 5 May 1961, at SGV-000061839, p.169.

Maclay added that he wished to discuss the existing and proposed rule with the Home Secretary in order to ensure that the regimes north and south of the border should be kept “in step”.³³⁸ In his letter to Richard Butler, the Home Secretary, Maclay further indicated that whilst he wished to see a reduction in the use of corporal punishment, “especially in girls schools”, he wanted to avoid a public disagreement with the staff associations.³³⁹ Such, he noted, might focus attention on “one limited and controversial aspect of approved school management”.³⁴⁰

The “political awkwardness” to which Maclay referred to related to a sustained attempt by a number of the Government’s back-bench MPs to seek the re-introduction of corporal punishment on conviction for young offenders. The move by the MPs did not include children committed to an approved school, but a parallel reduction in the use of corporal punishment was likely to be resisted by the same MPs. In the UK Parliament an amendment to introduce the measure in the Criminal Justice Bill, 1961 was supported by 67 MPs, the amendment having been submitted by the MP for Ayr (although it was an English only Bill).³⁴¹ The amendment proposed that corporal punishment should be available to courts on a second or subsequent conviction. The MP for Ayr (Sir Thomas Moore) had also written to the Secretary of State to seek the introduction of such a measure in Scotland, and was supported by the Government’s own Scottish political association.³⁴² Maclay and Macpherson had resisted calls for such a measure previously.³⁴³

Butler agreed that any change to the corporal punishment rule in Scotland should seek to “avoid public controversy” on the basis that it did not “command public sympathy”, but noted that corporal punishment in Scottish approved schools was “substantially greater” than in England.³⁴⁴ The comparable incidence of corporal punishment was reported as:

³³⁸ NRS ED15/368, letter, Maclay to R. A. Butler, Home Secretary, 16 May 1961, at SGV-000061839, p.191.

³³⁹ NRS ED15/368, letter, Maclay to Butler, 16 May 1961, at SGV-000061839, p.191.

³⁴⁰ NRS ED15/368, letter, Maclay to Butler, 16 May 1961, at SGV-000061839, p.191.

³⁴¹ *Hansard*, “New Clause—(Corporal punishment for young offenders, on second and subsequent conviction)”, 11 April 1961, 57-152.

³⁴² NRS HH57/177, letter, MP to Maclay, 4 July 1960, at SGV-000067507, pp.40; NRS HH60/767, minute, Private Secretary to the Minister of State, 12 April 1961.

³⁴³ NRS HH57/177, minute, Macpherson, 13 January, at SGV-000067507, p.156 and letter, Maclay, 18 January 1960, at SGV-000067507, pp.164-165.

³⁴⁴ NRS ED15/368, letter, Butler, 26 June 1961, at SGV-000061839, pp.176-177.

Table 1: Incidence of corporal punishment in approved schools per 100 boys and girls³⁴⁵

England and Wales

	Boys				Girls			
	Senior	Intermediate	Junior	All	Senior	Intermediate	Junior	All
1957	65	48	41	55	--	--	16	4
1960	49	61	53	57	--	1	47	14

Scotland

	Boys				Girls			
	Senior	Intermediate	Junior	All	Senior	Intermediate	Junior	All
1957	70	132	177	124	148	105	23	105
1960	67	188	407	203	62	21	3	35

The Secretary of State noted the Home Secretary's reply and minuted:

I am reluctant to alter anything against the views of those responsible for looking after the inmates (little brutes) except that it must be wrong to deal with older girls in a way which may stimulate the cause of their incarceration.³⁴⁶

The SED noted that the Home Secretary's letter provided no support for the reduction in the forms of corporal punishment for boys, but did provide "considerable support for our modified proposal to confine corporal punishment for girls to the younger ones."³⁴⁷ After further discussion with the Approved Schools Association the Department submitted a revised proposal to Brooman-White and Maclay. This, in effect, retained the 1933 corporal punishment rules for boys, with the proviso that, except in the classroom, another adult should witness the punishment, and that no boy should assist the person inflicting the punishment.³⁴⁸ On the issue of the corporal punishment of girls the SED noted that in England it was restricted to those under the age of 15, and

The revised Rule which was discussed with our Approved Schools Association proposed to abolish corporal punishment for girls altogether: in practice it is already obsolete in Catholic girls' approved schools and rare in any others except in Dr. Guthrie's Senior Girls' School, where it has been disquietingly frequent.³⁴⁹

³⁴⁵ NRS ED15/368, letter, Butler, 26 June 1961, at SGV-000061839, p.179.

³⁴⁶ NRS ED15/368, minute, Maclay, 28 June 1961, at SGV-000061839, p.184.

³⁴⁷ NRS ED15/368, minute, N. D. Walker, Assistant Secretary, SED, before 30 June 1961, at SGV-000061839, p.180.

³⁴⁸ NRS ED15/368, submission, W. F. Arbuckle, Secretary, SED, 11 July 1961, at SGV-000061839, p.189.

³⁴⁹ NRS ED15/368, submission, W. F. Arbuckle, Secretary, SED, 11 July 1961, at SGV-000061839, p.190.

The Department recommended that its use in Scotland should be restricted to junior schools where girls under the age of 13 were sent, although they could be 15 when they left. Maclay responded to the submission before Brooman-White, minuting that, "I think we must stop the caning of older girls, for the most explainable if not publishable reasons. The procedure proposed seems the best in the circumstances."³⁵⁰ At the same time Maclay sought clarification from Brooman-White on whether the girls were caned or strapped. In response to the submission and Maclay's minute Brooman-White noted that the amended revised rule was "a concession" to the Approved School Association, and added,

I would personally have preferred to leave the Scottish rules, even for the caning of girls, alone – as the public fuss any mention of corporal punishment now arouses seems out of all proportion to its intrinsic importance either way. But I do not want to argue the point and [the restriction of corporal punishment to girls] seems the best way of making the change.³⁵¹

He informed Maclay that in Scotland only the tawse was used—"a smack on the hands with a strap."³⁵²

The SED submitted the revised approved school rules to Maclay for approval later in 1961, and on the use of corporal punishment stated:

These Rules differ from the draft Rules originally submitted to Ministers in two main respects:- (1) as agreed by Ministers, the new Rule 31, which deals with corporal punishment, has been amended to continue existing practice except for – (a) the prohibition of corporal punishment for older girls, and (b) minor improvements relating to witnesses, assistance by pupils, and disciplinary action against staff who break this Rule.³⁵³

The revised rule on diet reflected the objections of the Approved School Association, and whilst the diet required the approval of an inspector, it contained no reference to a member of staff sharing a meal.³⁵⁴

Review

After 1948 the SED began consideration of revision to the Care and Training Regulations, 1933, partly on the assumption that the approved school regulations

³⁵⁰ NRS ED15/368, minute, Maclay, 12 July 1961, SGV-000061839, p.202.

³⁵¹ NRS ED15/368, minute, Brooman-White, 26 July 1961, at SGV-000061839, p.232.

³⁵² NRS ED15/368, minute, Brooman-White, 26 July 1961, at SGV-000061839, p.232.

³⁵³ NRS ED15/368, submission, W. F. Arbuckle, Secretary, SED, 17 November, & Maclay's approval, 17 November 1961, at SGV-000061839, p.264.

³⁵⁴ An inspector meant one of the H.M. Inspectors of Schools and any other person appointed by the Secretary of State to inspect an Approved School, see NRS ED15/368, "The Approved School Rules (Scotland) 1961", 20 November 1961, at SGV-000061839, p.265-271.

should keep in step with those proposed for voluntary homes, and partly as a result of its reflection of post-war trends in the care of children.³⁵⁵ Its principal concern on the standard of care centred on the quality of educational provision, recreational facilities, diet, and corporal punishment. The initial attempt to introduce classifying schools to improve pupil allocation on the basis of a "diagnostic" assessment of their needs in order to secure a more appropriate care and training programme faced the resistance of the approved school managers. The same managers resisted any reduction in the forms of corporal punishment, and were somewhat dismissive of expanding recreational activities beyond that already offered. In 1955, in the face of that opposition, the Secretary of State, James Stuart, indicated that there would be no "major change" in the approved school system, save for official encouragement to develop more courses of educational value, a broadening of recreational activities, as well as an improvement in dietary provisions.

The specific initiative for amending the Care and Training Regulations, 1933, arose in 1958 from a number of approved schools seeking to detain pupils in isolation for behavioural issues beyond the then existing six hour maximum period. SED's discussion of amending the regulations was overtaken by the Home Office's consideration of the report on the Carlton Approved School disturbances and the proposed introduction of a Criminal Justice Bill for England. In discussion of a similar measure for Scotland the SED secured the approval of the then Joint Parliamentary Under-Secretary of State, Niall Macpherson, to begin revision of the 1933 Regulations. Whilst the approved school managers agreed certain amendments to the regulations affecting educational provision, recreation, and diet, they refused to countenance any alteration in the form of corporal punishment save for older girls. Jack Maclay, in the wake of the view of school managers and the then wider political environment, approved only the withdrawal of use of corporal punishment on older girls—despite the evidence that its use in Scotland was proportionately above that in England (and rising). In that sense, the institutional resistance to "modern ideas" remained a powerful force in the care and protection of children in Scotland.

³⁵⁵ In 1948 the SED considered that the Children Act, 1948, and the Children and Young Persons (Scotland) Act, 1937 would be consolidated by a third measure, but were informed that the introduction of a Bill was not "a live issue", and that certain amendments to the 1937 Act would be incorporated within the Criminal Justice (Scotland) Bill, 1949, see NRS ED15/105, minutes, P. G. Brewer, Principal, SED, 23 August 1948, & H. S. Hardy, Assistant Secretary, SED, 3 September 1948, at SGV-000067499, pp.53-54. It appeared that the Home Office 'wanted to keep the criminal elements out' of the 1948 Act, hence the reluctance to merge the two codes on the care of children.

Section 4: Children's Homes and Approved Schools; visits by Scottish Office Ministers and officials, 1943-74

This section reviews the extent of official visits by Scottish Office Ministers to children's homes and approved schools, and, within the context of their Parliamentary and ministerial duties, seeks to assess the evidence for personal knowledge of conditions within these institutions. Similarly, while there were regular and special inspections conducted by the H.M. Inspector of Schools and the Child Care Inspectorate, the section seeks to assess the extent to which administrative officials within the SED and SHD visited such institutions to gain first-hand knowledge of the way that they carried on their work.

As indicated in Section 2, the statutory duties of the Secretary of State for the period under review were both wide and varied, though, of course, they did include oversight of approved schools and child care. Equally, the duties of the Joint Parliamentary Under-Secretary of State who held oversight of the approved schools and child care were wide, though after 1964 the brief was restricted to education, and the social services. Given the Joint Parliamentary Under-Secretary of State's wide brief, ministerial visits to children's homes and/or approved schools were unlikely to occur unless the Secretary of State or Joint Parliamentary Under-Secretary of State was advised by officials, or held a personal interest in the subject.³⁵⁶

Evidence of official visits by a Secretary of State, a Joint Parliamentary Under-Secretary of State, or an administrative official within the SED or SHD was sought from the retained files at NRS and other published sources (Departmental annual reports, Hansard, and newspaper reports). It should be remembered that during this period regular visits and special inquiries were very much the province of the SED's Inspector of Schools and the Scottish Office/SHD's Child Care Inspectors, aided, when required, by the DHS's medical officers.

The first recorded visit during this period by a Secretary of State to an approved school occurred in 1943 at the formal opening of Whittingeham in East Lothian. Addressing the boys, Tom Johnston, stated that

³⁵⁶ For instance, see the protocol for ministerial visits to youth and allied community centres in NRS ED25/18, SED "Notes for use of Secretary of State and Joint Parliamentary Under-Secretary of State", 23 August 1949; for SED and SHD discussion of a Joint Parliamentary Under-Secretary of State accepting an invitation to attend a meeting of an external organisation, in this case on the subject of juvenile delinquency, see minutes, 24 November, 30 November, 1 December, 1 December, and letter, 8 December 1954; for a Joint Parliamentary Under-Secretary of State rejecting an invitation to open a community centre see minute, Macpherson, 31 March 1958.

they were getting a great chance of good food, good discipline, beautiful surroundings, and very healthy conditions. Unfortunately in Scotland all boys did not have these chances. They must make the best use of them in the hope, indeed the certainty, that if they would play the game their country in turn would play the game by them. He hoped they would acquire habits of husbandry which might stand them in good stead. Speaking on behalf of H.M. Government, he wished them good fortune and the best of health.³⁵⁷

Johnston, now out of office, attended and spoke briefly at a conference on juvenile delinquency organised by the Magistrates' Association in 1950, but no report of his comments was recorded in the press.³⁵⁸ The conference discussed generally the issue of the appointment of psychologists to assist in the classification of approved school pupils, and greater use of specially appointed magistrates at juvenile courts to hear cases. One of his successor's, Hector McNeil, visited the recently opened Balnacraig Approved School for girls in February 1951, and also the newly opened Perth Council's Children's Home at Cleeve.³⁵⁹

In April 1946 the annual general meeting of the Royal Scottish Society for the Prevention of Cruelty to Children was held in Edinburgh. No recorded discussion of the meeting has been located, but it was announced that the Joint Parliamentary Under-Secretary of State, Tom Fraser, was due to speak.³⁶⁰ More significantly the following year the same Minister visited the Dundee Orphanage Institution, where it was reported that he had been "delighted with the work being done for the children".³⁶¹ Fraser was accompanied by the SHD's Under-Secretary whose brief covered child care. Later, in September 1949, the SHD noted that Fraser would be visiting Aberlour Holiday Home at Hopeman, where there had been concerns over its overcrowding and fire precautions.³⁶² Earlier in June during a recess of the UK Parliament, the Minister was scheduled to visit the Smyllum Orphanage, but no

³⁵⁷ *Scotsman*, "A great venture: Mr. Thomas Johnston on juvenile delinquents", 18 August 1943. At the event Johnston also announced the appointment of after-care welfare officials for Scottish Approved schools.

³⁵⁸ *Scotsman*, "Approved school reforms", 4 December 1950.

³⁵⁹ *Courier*, "Scots Secretary in Perth today", 23 February 1951; Balnacraig was a replacement for Wellshill.

³⁶⁰ *Scotsman*, "Classified advert of meeting", 25 April 1945. Fraser was Joint Parliamentary Under Secretary of State from August 1945 to October 1951, but covered the child care brief only to March 1950.

³⁶¹ *Courier*, "Orphanage scope may be widened", 23 October 1947; NRS ED11/442/1, minute, W. Hewitson Brown, Inspector, SHD, 6 October 1947, at SGV.001.009.5385.

³⁶² NRS ED11/444/1, report, Dr. I. M. Seymour, Medical Officer, DHS, 22 August 1949, SHD minute, 5 September, and minute, W Hewitson Brown, Chief Inspector, Child Care and Probation, SHD, 8 September 1949, at SGV.001.002.6035. Prior to appointment in 1942, Dr. Seymour was an Assistant Medical Officer, London County Council, and examiner for the Royal Sanitary Institute (Nursery Nurses) and the British College of Physical Education. During her DHS service she spoke widely at various conferences, for instance, *Scotsman*, 'Girls' Clubs Conference', 12 April 1948, & 17 April 1950, & *Scotsman*, 'The Homeless Child', 28 March 1949.

account of the visit has been located.³⁶³ A few months before the visit the Secretary of State, Arthur Woodburn, had indicated the need to increase the number of children who were boarded out, rather than placed in institutions.³⁶⁴ The DHS Medical Officer, acting on behalf of the SHD, had previously confirmed the policy to the Scottish Nursery Association conference in Edinburgh.³⁶⁵ The same Medical Officer recommended that larger local authorities should seek to establish reception homes to “properly” prepare a child for boarding out. It was policy again confirmed in March 1950 by the SHD’s Chief Inspector, Child Care and Probation where he decried the lack of contact between children and adults in institutions, and hence unpreparedness with the outside world, citing as an example of one home where boys had not sat down with an adult until aged 11.³⁶⁶

The policy of encouraging more specialist local authority children’s homes was continued by Peggy Herbison. In August 1950 she visited the newly opened Pitfodels Residential Nursery at Aberdeen, and the following November Perth’s new children’s home at Cleeve.³⁶⁷ The same Minister performed the opening ceremony of Argyll’s children’s home at Tollard House, Toward, by Dunoon in July 1951.³⁶⁸ The policy certainly had some success. By 1954, although the number and proportion of children in care who were boarded out remained almost the same as in 1949, the number of local authority children’s homes had more than doubled, and with an increase of the number of children in residence.³⁶⁹ At the same time the number placed by local authorities in voluntary homes fell, and with it the total number in residence. The policy to relieve the perceived overcrowding in children’s homes, noted in 1952 by the new Government’s Joint Parliamentary Under-Secretary of State, James Henderson-Stewart, appeared successful.³⁷⁰

Henderson-Stewart continued the previous administration’s policy of visiting children’s homes. In 1952 his visits included Aberdeen Children’s Home at Seafield Cottage, Banff County’s Children’s Home at Clydeville, Buckie, and the Aberlour

³⁶³ *Scotsman*, “Ministers’ engagements”, 3 June 1949.

³⁶⁴ *Hansard*, “Child Care”, 15 February 1949, 935. Woodburn was Secretary of State from October 1947 to February 1950.

³⁶⁵ *Scotsman*, “Homeless children: local authorities and their proper care”, 14 February 1949. The Medical Officer was Dr. I. M. Seymour, as above.

³⁶⁶ *Scotsman*, “Foster aunts are needed: care of children living in institutions”, 27 March 1950.

³⁶⁷ *Press and Journal*, “Ideal nursery at Pitfodels”, 25 August 1950; *Evening Telegraph and Post*, “Children in their Care”, 15 November 1950.

³⁶⁸ *Motherwell Times*, “Miss Herbison opens new Home for children”, 20 July 1951.

³⁶⁹ [Cmnd. 461] SHD, *Children in the Care of Local Authorities, November 1957. Particulars of the number of children in care under the Children Act, 1948, the manner of their accommodation, and the estimated costs of maintenance*, (July 1958), pp.2-3, at LEG-000000127.

³⁷⁰ *Fifehire Advertiser*, “Child welfare overcrowding not yet relieved”, 20 December 1952.

Orphanage.³⁷¹ Henderson-Stewart tour of the North of Scotland at that time also covered a visit to Oakbank Approved School, one of eight that he visited over a period of four years. Four of the others included Dr Guthrie's Boys, Dr Guthrie's Girls, St Ninians, and Dalbeth—the latter a new (replacement) school which he opened in 1953. (St Ninian's was about to be relocated from Kirkconnel to Gartmore.) Henderson-Stewart stated in a speech delivered early in his tenure stated:

If there is any prison atmosphere in the ordinary boarding school system, then it might be possible to level that criticism also at the Scottish Approved Schools, for the atmosphere and, indeed, the methods are very similar. There is control but also freedom, there is supervision but no bolts and bars, there are rules but also opportunities to develop initiative. The house system is adopted in many schools, team games are encouraged, youth organisation, cadets, pipe bands and the like are developed.³⁷²

Four years later at an Approved Schools' Association conference the speech notes stated that his experience of visiting the schools had left him "with very pleasant memories" and that he had formed "a high regard for the work of the staffs" who he thought "were tackling their most difficult problems with enthusiasm and skill."³⁷³ Later the notes commented specifically on corporal punishment:

I wonder how many of the general public realise that corporal punishment, for example, in the approved schools is probably less frequent – it is certainly under stricter control – than in the ordinary day schools. My impression of the schools was that they provided a stable and kindly environment in which the pupils are taught to work and to play with zest and in harmony with each other.³⁷⁴

The statement to the press after the conference repeated much of the above, but added that the Joint Parliamentary Under-Secretary of State commented that whilst the schools had "few frills" they provided "a stable, well-regulated, kindly environment, with lots of nutritious foods, health exercise, and a good all round education".³⁷⁵ Effectively Henderson-Stewart gave the approved school system ministerial support.

It is evident that subsequent Joint Parliamentary Under-Secretaries of State visited approved schools, children's and remand homes. In 1958 it was reported that Niall Macpherson visited Lochburn Home at least once in the wake of disturbances and a

³⁷¹ *Fife Herald and Journal*, "Mr. Henderson Stewart: North of Scotland tour", 1 October 1952.

³⁷² NRS ED15/160, "Notes for speech to Leven Rotary Club", 23 September 1952, at SGV-000061830, p.6.

³⁷³ NRS ED15/160, "Notes for speech", 25 May 1956, at SGV-000061830, p.31.

³⁷⁴ NRS ED15/160, "Notes for speech", 25 May 1956, at SGV-000061830, p.35.

³⁷⁵ NRS ED15/78, "For the information of the press", 25 May 1956.

mass break-out of the girls.³⁷⁶ The same Minister also visited Balgay as part of a 'tour', though it was not stated if he visited any of the other neighbouring approved schools.³⁷⁷ In June 1962 his successor, Richard (Dick) Brooman-White, visited Dr Guthrie's Boys School and

was conducted round the dormitories, the dining-room, the sick bay, the school-rooms, the gymnasium, the woodwork room and the swimming pool. During his visit the boys were engaged in out-door games, swimming or domestic chores. He met the Matron and Woodwork Instructor...and was impressed by the cleanliness of the School. He was particularly struck by [the Headmaster's] sense of purpose and the air of purposeful activity which pervaded the school during his visit.³⁷⁸

Brooman- White was "particularly interested" to hear the headmaster's views "on the problems of classification and of transference of children from Approved Schools to care of local authorities in appropriate cases."³⁷⁹ His successor, Lady Tweedsmuir, visited Larchgrove Remand Home in Glasgow in January 1963, where it was stated that the visit had been "most interesting".³⁸⁰ Larchgrove was the largest remand home in Scotland, which 16 months earlier, the SHD's Child Care Inspector reported "was running well".³⁸¹

The Assistant Secretary of the SED division that covered approved schools visited Balgay twice, once sometime after 1945, and the second around 1952.³⁸² On both occasions he reported that he had "formed no high opinion" of the headmistress.³⁸³ In 1953 the SED's Secretary toured and opened a new classroom block at Dr Guthrie's Boys School, part of £50,000 spent since 1944 on repairs, maintenance and

³⁷⁶ NRS ED15/275, minute, possibly W. M. Morrison, Principal, SED, 17 October 1958, at SGV.001.008.5452. Macpherson was accompanied by A. B. Hume, the SHD's Under-Secretary who covered child care, and W. Hewitson Brown, the Chief Inspector, Child Care and Probation.

³⁷⁷ NRS ED15/275, minute, J. Kidd, Assistant Secretary, SED, 22 October 1958.

³⁷⁸ NRS ED15/419/1, minute, J. E. Fraser, Assistant Principal, SHD, (Private Secretary to Sir William Murrie, Permanent Under-Secretary of State, Scottish Office), 21 June 1962, at SGV-000066783, p.207. Brooman-White was accompanied by Fraser and J. A. McPherson, the HM Inspector of Schools, SED.

³⁷⁹ NRS ED15/419/1, minute, J. E. Fraser, Assistant Principal, SHD, (Private Secretary to Sir William Murrie, Permanent Under-Secretary of State, Scottish Office), 21 June 1962, at SGV-000066783, p.207.

³⁸⁰ NRS ED15/465/1, "Extract from visitor's book", Appendix C, 1963, 16 January 1964, at SGV-000085183, p.28. Lady Tweedsmuir was accompanied by J. Kidd, Assistant Secretary, SED

³⁸¹ NRS ED15/465/1, report, section 11 Conclusion, W. N. Smith, Child Care Inspector, SHD, 20 September 1961, at SGV-000085183, p.10. However, an inspection in 1964 concluded that Home had failed "to reach a satisfactory standard", report, section 24, J. Hassan & J. B. Gillespie, Child Care Inspectors, SHHD, 14 February 1964. In particular they noted that "the use of corporal punishment and of the 'detention cell' may require control".

³⁸² NRS ED15/482/1, minute, A. G. Rodger, Under-Secretary, SED, 10 July 1959, at SGV.001.009.4193.

³⁸³ NRS ED15/482/1, minute, A. G. Rodger, Under-Secretary, SED, 10 July 1959, at SGV.001.009.4193.

buildings.³⁸⁴ In 1959 the SHD Child Care Division's Assistant Secretary visited the Corporation of Glasgow's Eglinton Babies Home and Lochgarry Children's Home together with Chief Inspector, Child Care and Probation, though any comments he may have made have not been recorded.³⁸⁵ In August 1960 the SED's new Secretary visited Larchgrove Remand Home (Glasgow) where the issue of "unsuitable committals" by the courts to approved schools was discussed.³⁸⁶ He was particularly concerned with the committal of children under the age of 10. On another occasion after a visit in 1960 the SED Child Care Division's Assistant Secretary reported adversely on the care regime at Dr Guthrie's Girls, especially diet.³⁸⁷ In 1963 the SED Principal who covered remand homes visited Lanarkshire's Remand Home at Cambuslang. The home, which had a sanctioned roll of 18, held over 30, and the official minuted he was "disturbed" and alarmed at the inadequate staffing, the overcrowding leading to a number of teenage boys "hanging around unoccupied and bored".³⁸⁸

In June 1965 the Secretary of State, Willie Ross, visited and formally opened the new approved school for older Roman Catholic boys at Shandon.³⁸⁹ As a backbench MP and member of the Select Committee on Estimates, the same Minister had visited St Joseph's, Tranent, and Dr Guthrie's Schools in 1949, the latter not without criticism (see below).³⁹⁰

³⁸⁴ NRS ED15/160, minute, F. M. M. Gray, Principal, SED, 20 October 1953, enclosing note of arrangements and notes for the Secretary's information, at SGV-000061830, pp.10-13.

³⁸⁵ NRS ED11/517/1, "Glasgow Children's Department: examination of child care arrangements", the visit dated 11 November 1959, at SGV-000061829, pp.2-84. The report on Eglinton stated, "Well run by staff of qualified nurseries", and on Lochgarry, "Capable Matron running a good Home in spite of overcrowding and disadvantage in lay-out".

³⁸⁶ NRS ED15/189, SED minute, 25 August 1960, at SGV-000067164, p.9. The new Secretary, W. F. Arbuckle, was accompanied by J. A. M. Mitchell, the Assistant Secretary for the SED division that covered child care.

³⁸⁷ NRS ED15/367, minute, N. Walker, Assistant Secretary, SED, 21 September 1960, at SGV-000061835, pp.47-48; see also NRS ED15/246/1, minute, N. D. Walker, Assistant Secretary SED, 20 September 1960, at SGV-000061826. The Division's Principal who held the brief for approved schools had recently visited the school on two occasions to discuss "space heating", minute, W. M. Morrison, Principal, SED, 25 July 1960. Walker had assumed responsibility for the SED division that covered child care in September 1960.

³⁸⁸ NRS ED15/470/1, minute, J. O. Johnston, Principal, SED, 12 July 1963; see also report, J. B. Gillespie, Child Care Inspector, SHHD, 9 July 1963, at SGV-000000067, p.46.

³⁸⁹ [Cmnd. 2914] SED, *Education in Scotland in 1965. A report of the Secretary of State for Scotland*, (May 1966), p.78, at LEG-000000200.

³⁹⁰ [314], *Eighteenth report from the Select Committee on Estimates together with minutes of evidence taken before Sub-committee F, and appendices, session 1948-49. Approved Schools*, (14 December 1949), pp.27-59, at LEG-000000105, pp.47-79.

In January 1965 the new Government's Joint Parliamentary Under-Secretary of State, Judith Hart, visited both Dr Guthrie's Girls' and Wellington Farm Schools, and subsequent to the visit minuted that she:

would like to see a very early end to [the] system [of voluntary management of approved schools] in Scotland, [and] I have asked if [the Parliamentary Secretary of State at the Home Office] will be good enough to keep me in touch, so that we may keep pace with English developments.³⁹¹

Whilst the Social Work (Scotland) Act, 1968, did not lead to the removal of the voluntary sector, it did envisage that such schools would work more closely with local authority social work departments.

Hart "expressed" a concern on the possible promotion of a member of staff at Dr Guthrie's Girls' School, an indication that the visit was conducted at some length.³⁹² She also visited the new Geilsland School for boys in Ayrshire though no detailed comment of her views was recorded.³⁹³

Hart's successor, Bruce Millan, visited Loaningdale where he "looked over the premises", "attended briefly the weekly 'school' meeting" and then discussed future policy towards approved schools with the headmaster.³⁹⁴ The H.M. Inspector of Schools reported that the Minister (a former school teacher) appeared satisfied with his visit and that "the discussion had for him been most profitable."³⁹⁵ Later that year he visited Rossie, though there are no detailed press reports on comments that he may have made.³⁹⁶

In April 1976, at the end of the period under review, the Joint Parliamentary Under-Secretary of State, Frank McElhone, opened the new secure unit for 18 boys at Kerelaw, St Mary's List D School, Bishopbriggs.³⁹⁷

³⁹¹ NRS ED15/307, minute, Hart, 26 January 1965, at SGV.001.009.2960.

³⁹² NRS ED15/307, minute, I. M. Wilson, Assistant Secretary, SED, 22 January 1965, at SGV.001.009.2955.

³⁹³ NRS ED 15/486/1, letter, J. S. Murphy, H. M. Inspector of Schools, SED, 1 July 1966, at SGV-000000061. The visit occurred sometime in 1965. The same letter indicated that N. W. Graham, the SED Secretary, also visited the school.

³⁹⁴ NRS ED39/551, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 26 July 1967, at SGV.000061833, p.78.

³⁹⁵ NRS ED39/551, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 26 July 1967, at SGV-000061833, p.79. It was recorded that since his appointment in April 1966 the Minister had visited other Approved schools, but these were not listed.

³⁹⁶ *Press and Journal*, "Getaway from Rossie: boys abscond as Millan visits approved school", 26 & 27 September 1967. The visit included lunch; see also note of visit in NRS ED15/346/1, minute, B. J. Bennett, Principal, SWSG, 27 September 1967, at SGV-000085322, p.107. J. A. McPherson, H.M. Inspector of Schools, SED, accompanied the Minister.

³⁹⁷ [Cmnd. 6918] SED, *Social Work in Scotland in 1976*, (September 1977), p.5.

In June 1965 the SED Child Care Division's Principal with responsibility for approved schools visited Oakbank to discuss with its managers new house units and other improvements to the quality of accommodation.³⁹⁸ The following May, Rossie was visited by the SED Child Care Division's Assistant Secretary, who wrote to the headmaster afterwards commenting specifically on the special (Macdonald) Wing:

We in the Department are all very grateful to the Managers and yourself for the great service you are performing for the Scottish approved schools system as a whole in undertaking the difficult work of the Macdonald Wing, and I was particularly interested to see for myself the premises in which the Wing is housed and something of the way in which that work is carried on.³⁹⁹

The same official visited Oakbank Approved School in November 1966, and wrote to the headmaster stating that he had been "most interested to see the School and to have the opportunity of talking...about various different aspects of the work".⁴⁰⁰ He had also visited St Joseph's Approved School, Tranent, in October 1966, at the official opening of new buildings, and took the opportunity to discuss the issue of accommodation with its managers (there was pressure on the availability of accommodation for Roman Catholic boys).⁴⁰¹ This was followed up by a more formal meeting the following January where the SED noted that the matters for discussion concerned accommodation for the boys; the replacement of the workshops; repair and replacement of the drainage; additional staff requirements; staff accommodation; and improvements to the kitchen.⁴⁰² The SWSG's Principal who covered approved schools visited Loaningdale in September 1967, where a pupil had been arrested for the alleged murder of a local young girl.⁴⁰³ After a review of the internal security arrangements the report submitted to the Parliamentary Under-Secretary of State "observed" that a pupil "could not readily absent" themselves without notice during the day for more than about 45 minutes, but recommended the immediate installation of an alarm system.⁴⁰⁴

The same Child Care Division's Assistant Secretary who visited Rossie and St Joseph's had visited Quarrier's Children's Home in December 1965. In discussion with its

³⁹⁸ NRS ED15/425/1, minute, B. J. Bennett, Principal, SED, 30 June 1965, at SGV-000000062. He was accompanied by J. A. McPherson, H.M. Inspector of Schools, SED.

³⁹⁹ NRS ED15/395, letter, I. M. Wilson, Assistant Secretary, SED, 25 May 1966, at SGV-000067203, p.75.

⁴⁰⁰ NRS ED15/381, letter, I. M. Wilson, Assistant Secretary, SED, 24 November 1966, at SGV-000067200, p.5.

⁴⁰¹ NRS ED15/330, minute, I. M. Wilson, Assistant Secretary, SED, 11 October 1966, SGV.001.009.3563.

⁴⁰² NRS ED15/330, minute, B. J. Bennett, Principal, SED, 12 January 1967, at SGV.001.009.3580-3581; notes for meeting, 24 January, prepared by B. J. Bennet, 22 January 1967, at SGV.001.009.3595-3596.

⁴⁰³ NRS ED15/346/1, minute of meeting at the school, B. J. Bennett, Principal, SWSG, 5 September & submission, R. D. M. Bell, Under-Secretary, SWSG, 1 September 1967, at SGV-000085322, pp.62-66.

⁴⁰⁴ NRS ED15/346/1, minute of meeting at the school, B. J. Bennett, Principal, SWSG, 5 September 1967.

managers the official confirmed that the SED accepted an earlier report from the Child Care Inspectors that the home was no longer "in accord with accepted standards of child care".⁴⁰⁵ The home required the employment of additional professionally trained staff, improved accommodation for the children, and introduction of individual planning in their care. The Assistant Secretary wrote to Quarrier's General Director stating that he had "greatly welcomed the opportunity of seeing at first hand a little of the work which Quarrier's are doing and I found the tour of the buildings of great interest".⁴⁰⁶

Review

It cannot be said that Scottish Office ministers, whilst in office, had little or no direct knowledge of conditions within children's homes or approved schools. Over the period under review at least 11 of these Ministers visited children's homes and approved schools, and certainly in 1956 the Joint Parliamentary Under-Secretary of State gave uncritical support to the system of approved schools. By 1965, after visits to two institutions by the Joint Parliamentary Under-Secretary of State, that support appears to have evaporated.⁴⁰⁷ Whilst the Social Work (Scotland) Act, 1968, did not seek the abolition of voluntary management, her successor confirmed that a sea change in attitude towards the care of children had occurred.⁴⁰⁸

Both the SED and SHD (and later the SWSG) had "technical" officers to inspect and report on children's homes and approved schools—and undertook special inquiries when deemed necessary by the Secretary of State, the Joint Parliamentary Under-Secretary of State, or the Departments. The evidence suggests that, on occasion, administrative officials within SED also visited approved schools, remand homes, and children's homes and discussed issues of concern more directly with their managers. In that sense they too had direct knowledge of conditions and the attendant care regimes. This would appear more evident from the late 1950s, and even more so after 1964 with the prospect of new child care legislation and the projected establishment of what became the administrative arm of that legislation, the Social Work Services Group.

⁴⁰⁵ NRS ED11/708/1, report, Child Care Inspectors, para 36 (a), 31 May, & minute, I. M. Wilson, Assistant Secretary, SED, 14 December 1965. The Inspectors were M. J. Morrison, D. P. Hughes, & J. B. Gillespie.

⁴⁰⁶ NRS ED11/708/1, letter, I. M. Wilson, Assistant Secretary, SED, 14 December 1965, at SGV.001.005.0151.

⁴⁰⁷ See also NRS ED15/425/1, minute, SED Approved Schools' branch meeting, 24 March 1966, at SGV-000000062, p.122. Attendees included I. M. Wilson, Assistant Secretary, B. J. Bennett, Principal, and the HM Inspector of Schools, J. A. McPherson & J. S. Murphy.

⁴⁰⁸ NRS ED15/535, minute of meeting between Millan and J A. M. Mitchell, Under-Secretary, and P. A. Cox, Assistant Secretary, SWSG, 29 April 1970.

Section 5: Official and Ministerial knowledge and consideration of unsatisfactory care, neglect and abuse, 1945-74

This section covers Scottish ministerial and official knowledge and consideration of unsatisfactory care, neglect and abuse in so far as it concerned the care provided within approved schools, children's homes, or foster care, or where a child was under supervised care at home. (Under the Social Work (Scotland) Act, 1968, Section 44 (1) a children's hearing could require a child in need of compulsory measures of care to reside under supervision care at home rather than in a residential establishment.) It begins from a review of official concerns on the impact of Scottish interpretations of then current legislation for the care of children, and the changing attitude towards that care. It then discusses the response to issues that arose within approved schools (later List D schools), children's homes and in foster or in supervised care at home. The relationship between the various regulations that governed provision and the inspection and review of the standard of care provided will be reviewed, whether it was within institutions or under supervision. In doing so it will set out the extent to which officials and ministers defined certain conditions as satisfactory or not, the terminology used, and whether a holistic definition of abuse developed.

Writing some 14 years after the publication of the Social Work (Scotland) Bill, 1968, David Cowperthwaite, a former Scottish Office civil servant who at one time held responsibility for the administration of the criminal justice system, noted the unease that the previous system of child care—child welfare, and the care and protection of children—had caused. He commented:

The Children Act of 1908 derived from the body of opinion that was distressed by the application of a criminal law devised for adults to some child offenders. Its solution was to adjust the law and procedure to children; its result was to give a legitimacy (for better or worse) to the prosecution of children and the application of the criminal process to them to an extent not previously contemplated. By the middle of the 20th century there was a concern about the effect and value of the many-times-multiplied prosecutions of children which resulted from the accommodation to them of the criminal courts and their powers.⁴⁰⁹

In essence Cowperthwaite recognised that a systemic issue surrounded the appropriateness of the care provided, and perhaps distorted it. Thus, to begin a review of the issue of the abuse of children it is essential to appreciate the

⁴⁰⁹ David J. Cowperthwaite, *The emergence of the Scottish children's hearings system*, p.67.

emergence of a view within informed circles that the 1908 Children Act was largely responsible for the upsurge in the prosecution of children in the 9-15 age range. It was believed children under that system required “care and protection” through committal to an approved school, rather than in the community with professional support. Whilst no official figures were published on the number of older children (9-15) in voluntary homes as compared with approved schools, it would appear from the data that exists that the majority were committed to approved schools.⁴¹⁰ This is especially important as similarly no official figures were published of voluntary committals to approved schools, that is where a parent or guardian agreed to a committal without a full court hearing. Equally it is important to note that in the post-war period, most children “in care” at any one time were in institutions—voluntary homes and approved schools—rather than boarded out, or otherwise being looked after. As one SED official commented in 1958:

I think we have a much higher proportion of our juvenile population in approved schools than have the English. This may reflect a greater degree of original sin, or merely a less efficient probation service or a greater willingness by Courts to have children put away.⁴¹¹

The SED were already aware that Glasgow Stipendiary Court’s appeared ignorant “of the facilities offered by the [City’s] Child Care Service”, and, indeed, “looked on placing in an Approved School as a form of child care”.⁴¹²

Section 3c indicated that ministers and officials were certainly aware of the conditions within approved schools, but in the period 1959-61, due to representations from their voluntary managers, ministers shied away from the

⁴¹⁰ [Cmnd. 779] SHD, *Children in the care of Local Authorities in Scotland November 1958. Particulars of the number of children in care under the Children Act, 1948, the manner of their accommodation and the estimated costs of maintenance*, (August 1959), at LEG-000000126; [Cmnd. 740] SED, *Education in Scotland in 1958. A report of the secretary of state for Scotland*, (May 1959), Table 24, p.122; 2,852 children in care of all ages were in local authority and voluntary homes compared to 2,427 in junior, intermediate and senior Approved schools. The number in Approved schools did not include “voluntary admissions”. The official reports do not indicate the number in the latter category. In 1961 it was reported that ten of the thirty girls at Balnacraig Approved Schools were returned to their local authorities, those ten being voluntary admissions, see below. It should also be noted that at the time of the 1958 disturbance at Lockburn, there were no “approved school girls” in residence, though it is evident from the Press there were voluntary admissions, see NRS ED15/368, letter, Maclay, 11 December 1961, & *Glasgow Herald*, ‘Girls again leave the Glasgow Home’, 29 September 1958.

⁴¹¹ NRS ED15/275, minute, J. Kidd, Assistant Secretary, SED, 19 August 1958, at SGV.001.008.5423.

⁴¹² NRS ED15/189, minutes, W. M. Smith, Child Care Inspector, SHD, 11, & 11 October 1957, at SGV-000067164, p.4; W. S. Kerr, Principal, SHD, 31 October 1957, at SGV-000067164, pp.4-5; L. C. Watterson, Higher Executive Officer, SHD, 1 November 1957, at SGV-000067164, p.5; see also letter, A. G. Rodger, Assistant Secretary, SED to A. B. Hume, Assistant Secretary, SHD, 3 May 1955. Smith’s inspection duties also covered the Probation Service. Watterson became an SED Senior Executive Officer in 1961.

introduction of rules and regulations that reflected “modern ideas” of child care.⁴¹³ These ideas—as put forward by the civil servants—were intended to tighten the regulation of corporal punishment, improve the diet, extend education provision (as opposed to “training”), have better dormitory accommodation, and more broad-based recreational facilities. Given the regulations that did exist, the Government could not openly criticise institutions where the standards of care fell below those ideas.

This Section of the report will deal with approved schools for the period 1945-61, then review children’s homes, 1945-59, next approved/List D school, 1961-74, and finally, children homes and foster care, 1959-74. It will assess official and ministerial consideration of specific cases of abuse, neglect or unsatisfactory care within these settings, noting that the retained files at NRS represent only a fraction of the information that was available during the period under review. The aim is to present a picture of official consideration of abuse when that was reported, and to consider the extent to which a holistic definition of abuse existed before the publication of the two circulars on child care in 1975. The circulars were issued in response to the Inquiry held under the auspices of Mr. C.E. Jauncey, QC, into the case of Richard Clark, a three-year old boy who had suffered serious injury while living with family neighbours in Perth.⁴¹⁴ After the Inquiry’s Report the Secretary of State commented that,

There is nowadays much more public awareness of the problem of child abuse than there was a few years ago. There is greater emphasis on diagnosis and prevention in the professions concerned, and on the development of arrangements for co-operation between individuals and bodies with responsibilities in this field. It is clear, however, from this unhappy case that we still have far to go, and that greater urgency must be imparted to this work. It is for central Government to give the lead in this...⁴¹⁵

The section will conclude with a review of the evidence of knowledge of child abuse and its definition.

Approved Schools, 1945-61

⁴¹³ See discussion in Part 3c.

⁴¹⁴ SWSG & SHHD, *Non-accidental injury to children*, NHS circular No 1975 (GEN) 23 & SW1/75, 18 April 1975; SHHD, *The health of children in care*, NHS circular No 1975 (GEN) 24 & SW7/75, 30 April 1975. The Inquiry was conducted with the agreement of the Town Council, see SED/SWSG, Report of the Committee of Inquiry into the consideration given and steps taken towards securing the welfare of Richard Clark by Perth Town Council and other bodies or persons concerned (1975).

⁴¹⁵ *Hansard*, “Richard Clark (Report)”, 11 February 1975, 85-87. Please note that the name of the chairman of the committee was erroneously cited as Mr. J.E. Jauncey, QC.

The employers of staff within the then system of child care were, of course, local authorities, as were the governors of children's homes and approved schools. Nevertheless, within the approved school system managers reported the dismissal of staff to the SED. A list of staff dismissed for the period 1940-1950 reveals that the majority were dismissed for drunkenness, misconduct, and insubordination.⁴¹⁶ However, a case at Balgay in 1945 concerned the "alleged assault" by a gardener against a pupil.⁴¹⁷ Another at Whittinghame was listed as "misconduct" by a clerk "towards pupils", though the SED appeared to be informed verbally that it was the result of "improper conduct with boys in school".⁴¹⁸ The SED noted its concern in the latter two cases, particularly that at Whittinghame.⁴¹⁹

A case at Rossie in 1949 resulted in the prosecution of the headmaster who had already been dismissed by the governors. The conviction at Forfar Sheriff Court on the issue of the embezzlement of school funds resulted in a month's imprisonment.⁴²⁰ The pupils had agreed to undertake farm work ('tattie howking') on the basis that their earnings would be used to purchase films for the school cinema. Unknown to the boys (and the managers), the headmaster had built up a series of personal debts and retained the earnings. Whilst the case was not one of physical abuse (schoolchildren were permitted to undertake farm work at harvest time), it was a case of breakdown of trust.⁴²¹ There had been an earlier case in 1947 where the previous headmaster had been dismissed on the basis of "the misdirection of staff and school".⁴²² In this case, an independent SED investigation was carried out and its result announced by Joseph Westwood, the Secretary of State, in Parliament, though the specific details of what had occurred were omitted, other than Westwood stating that Rossie's managers recognised the need to strengthen the staff and improve the "training facilities".⁴²³ In another case at Rossie a press report at the end of 1946 had indicated that its boys had been working at a nearby brickworks "making brick and drain tiles for field drain pipes".⁴²⁴ Generally the form of work approved by the SED was undertaken within a school or on neighbouring farms. The issues at Rossie were noted by the SED and during the consideration of new rules for approved schools in

⁴¹⁶ NRS ED15/322, list of staff dismissed for irregularities, 1937-50, at SGV.001.009.3123.

⁴¹⁷ NRS ED15/322, list of staff dismissed for irregularities, 1937-50, at SGV.001.009.3123.

⁴¹⁸ NRS ED15/322, list of staff dismissed for irregularities, 1937-50, at SGV.001.009.3123.

⁴¹⁹ NRS ED15/322, minute, P. G. Brewer, Principal, SED, 27 April 1949, at SGV.001.009.3120.

⁴²⁰ *Dundee Courier*, "Approved School Head denies embezzlement", 12 March, 'Clerk found notes on cash-box, 14 March 1950, & 'Ex-School Head sentenced', 15 March 1950.

⁴²¹ *Dundee Courier*, "Approved School Head denies embezzlement", 12 March, "Clerk found notes on cash-box", 14 March 1950, & "Ex-School Head sentenced" 15 March 1950.

⁴²² NRS ED15/322, list of staff dismissed for irregularities, 1937-50 at SGV.001.009.3123.

⁴²³ *Hansard*, "[Rossie Farm School](#)", 4 March 1947, 233-234.

⁴²⁴ *Scotsman*, 'An Angus Brickworks', 17 & 20 December 1946, 'An Angus Brickworks: Where Roof Tiles Might be Made, Good Quality Clay'.

1952 a clause was drafted on the duties of farm managers.⁴²⁵ As Section 3c indicated the draft rules were placed in abeyance. The Secretary of State's response after the objections of approved school managers was that the required changes should be pursued through administrative action.

Achieving a change in practice was not always a smooth process. For instance in 1959, after an H.M. Inspector of Schools report on Dr Guthrie's Girls School which, amongst other concerns criticised its training regime, the SED's Under-Secretary commented that, "the girls should not be looked upon simply as unpaid drudges; nor should they be trained as laundry workers which few of them will be" (see below for a fuller discussion).⁴²⁶ The opposition of the managers was such that the SED accepted that laundry instruction could be given if new equipment was installed for "institutional wash" and "instructional purposes".⁴²⁷

The detailed files on Dr Guthrie's Boys and Girls Approved Schools from 1949-53 have not been retained, but from material held in other files and the examination of their headteachers by the Select Committee on Estimates (Approved Schools) in 1949, it is evident that management issues impacted on the standard of care. Shortly before the Committee took evidence, Arthur Woodburn, the Secretary of State, approved that two H.M. Inspectors of Schools should assist its managers conduct an investigation after complaint by three of its teachers "that the headmaster's discipline was bad" and that there was a general lack of co-operation within the school.⁴²⁸ The investigation revealed that "the complaint had substance" and certain remedies were suggested to the school's managers to ensure the fuller co-operation of staff. For its part the Select Committee noted its general concern on the school's facilities, and commented:

the buildings were unsuitable and gloomy, the children were poorly dressed and the atmosphere was oppressive. There was no common room, and the boys

⁴²⁵ NRS ED15/278, 'Revision of Care and Training Regulations', Home Office rule, 19, at SGV-000067165, pp.53-103.

⁴²⁶ NRS ED15/246/1, minute, meeting of SED officials, 14 September 1959, at SGV-000061826, p.79. Attendees included A. R. Rodger, Under-Secretary, W. M. Morrison, Principal, H.M. Inspectors of Schools, J. A. McPherson, D. S. Petrie, & M. G. Watt.

⁴²⁷ NRS ED15/246/1, note of meeting, SED and Managers of Dr Guthrie's Girls' School, 9 October 1959. at SGV-000061826. Attending on behalf of the SED were A. R. Rodger, Under-Secretary, J. A. M. Mitchell, Assistant Secretary, W. M. Morrison, Principal, H.M. Inspector of Schools, D. S. Petrie, H.M. Inspector of Schools, M. G. Watt, & R. J. Edie, Higher Executive Officer.

⁴²⁸ NRS ED15/278, letter, Woodburn, 6 January 1950, at SGV-000067165, pp.25-26.

were not allowed the use of the gymnasium in their spare time, the only recreation rooms being the classrooms.⁴²⁹

It was evidently a matter that concerned the Scottish Office ministers. In May the following year Peggy Herbison stated to Parliament that “[a]pproval has been given to schemes designed to improve the accommodation and amenities and the variety of training at this school.”⁴³⁰ The scheme included

new classroom block, extensive interior and exterior painting, roof repairs, heating and structural improvement in several classrooms, renewal of inside and outside lavatories, drainage work, improvements in kitchen, and paths re-laid and the field at rear levelled.⁴³¹

Whilst the headmaster kept his post, the headmistress of the girls school was eventually dismissed. An H.M. Inspector of Schools commented that his first “main task” on appointment in 1950 “was to secure, against the wishes of the managers, the dismissal...of the headmistress whose 20 years of service had been marked by sadistic cruelty and many other irregularities which had brought much misery to two decades of girls.”⁴³² The allegations were first brought to light by the school's former deputy and confirmed by the SED after interviewing a number of girls at the school. The SED's note on the dismissal gave the reason as her “general unsuitability”.⁴³³

The same H.M. Inspector of Schools also commented on the dismissal shortly afterwards of the headmaster of Wellington Approved School. This appears to have been related to the school's use of “the track system”.⁴³⁴ The system was based on “defaulters” “doubling round the yard” until they “were ready to drop”, which some apparently did. Such punishment was not permitted within the Care and Training Regulations, 1933. The issue had been revealed by a boy at the school who had

⁴²⁹ [314], *Eighteenth report from the Select Committee on Estimates together with minutes of evidence taken before Sub-committee F, and appendices, session 1948-49. Approved Schools*, (14 December 1949), p.xiv, at LEG-000000121.

⁴³⁰ *Hansard*, “Boys' School, Liberton (Conditions)”, 2 May 1950, 1568-9.

⁴³¹ NRS ED15/160, minute, F. M. M. Gray, Principal, SED, paper B, 20 October 1953, at SGV-000061830, p.12.

⁴³² NRS ED15/307, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 29 June 1967, at SGV.001.009.2981; NRS ED15/175/1, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 29 March 1959, at SGV.001.009.1814-1818.

⁴³³ NRS ED15/322, list of staff dismissed for irregularities, 1937-50, note added in pencil, at SGV.001.009.3123.

⁴³⁴ NRS ED15/175/1, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 29 March 1959, at SGV.001.009.1814. McPherson later commented that the Headmaster had appeared in court for “indecent conduct”, but received a “not proven” verdict, see NRS ED15/307, minute, 26 June 1967, at SGV.001.006.2861. The official SED record indicates that the Headmaster was dismissed for “excessive punishment of boys”, see NRS ED/53/200, case 243 [closed file].

travelled from Penicuik to St Andrews House to complain in person, eventually being interviewed by the SED's Under-Secretary.⁴³⁵

Whilst the power to dismiss staff for abuse or inappropriate care lay with the approved school managers, it is evident in the cases of Rossie in 1947, Dr Guthrie's Girls in 1952, and Wellington in 1954-55, that the SED was active in the process and accepted that the conduct of the headteachers was unacceptable. Excessive punishment, "sadistic cruelty" and certain forms of "training" were evidently regarded as unacceptable in the provision of care. Equally, ministers and the SED played an active role in the review of conditions at Dr Guthrie's Boys in 1949-50. Poor quality classrooms, leaking roofs, inadequate lavatories and kitchen, inefficient classroom heating, and uneven playing grounds were deemed equally unacceptable in the provision of care and training.

The issue of excessive punishment at Balgay Girls' Approved School was raised with Niall Macpherson, the Joint Parliamentary Under-Secretary of State, in 1957 by two MPs.⁴³⁶ The Minister issued instruction that the H.M. Inspector of Schools should conduct a special inquiry. After talking to the pupils and consulting the school's punishment log, the Inspector confirmed that a number of girls had been subject to corporal punishment beyond that permitted within the Care and Training Regulations, 1933, though the report indicated that the use of corporal punishment was less frequent than in other girls' approved schools. Macpherson informed one of the MPs that overall he was satisfied with the conduct of the school, but in an internal minute to the SED commented it was "hardly a good argument to say that it [corporal punishment] is less than elsewhere. However, I have let it pass".⁴³⁷ The school's managers, who were informed of Macpherson's concerns, subsequently informed the SED that they had given the Headmistress a formal warning on the need "to stick" to the regulations.⁴³⁸

The following year the apparent use of "irregular" punishment was reported at Dr Guthrie's Girls'. In this case, after the complaint to the SED by a girl's parent that their

⁴³⁵ NRS ED15/175/1, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 29 March 1959, at SGV.001.009.1814-1818. It would appear the boy who travelled to St. Andrews House was not the victim, but another who disliked the Headmaster for other reasons, see NRS ED15/486/1, minute, J. A. MacPherson, H.M. Inspector of Schools, SED, 26 October 1967, at SGV-000000061.

⁴³⁶ NRS ED15/482/1, minutes, I. L. Sharp, Assistant Secretary, SHD, (Private Secretary to Macpherson) to SED, 17 May 1957, at SGV.001.009.4074; S. W. Fogarty, SED (Private Secretary, W. F. Arbuckle, Secretary, SED) to Sharp, 5 June, and Macpherson, 2 July; & letters Macpherson to A. Cullen, MP, 11 July 1957, at SGV.001.009.4044; G. M. Thomson MP to Macpherson, 1 August 1957, at SGV.001.009.4083-4084; W. M. Morrison, Principal, SED to Dundee Approved School Society, 29 August 1957.

⁴³⁷ NRS ED15/482/1, minute, Macpherson, 2 September 1957, at SGV.001.009.4075.

⁴³⁸ NRS ED15/482/1, letter, Dundee Approved School Society, 11 October 1957, at SGV.001.009.4115.

daughter had been subjected to dietary punishment, an inspection was authorised.⁴³⁹ The H.M. Inspector of Schools' subsequent report noted the "unwise treatment" of the girl on her return to the school (after absconding) and the "alleged irregular attack" on another some months previously.⁴⁴⁰ The attack had left the latter girl "marked in a number of places" and the blows did not appear "accidental".⁴⁴¹ In response to the incidents, and after a visit to the school by the Chair of SACCC, the H.M. Inspector of Schools began a more detailed investigation of its educational and social provision.⁴⁴² In relation to the alleged incidents the H.M. Inspector of Schools commented that:

I think that the ladies [the staff] at Dr. Guthrie's have probably learned their lesson about dietary punishment and that a situation similar to the...incident is not likely to recur. We can make some reference in the report [on the School] to dietary punishments and to the need to allow girls to voice complaint to managers or H.M.I. I think that should probably suffice.⁴⁴³

The consequent report—33 pages in length—noted the use of corporal punishment, 136 instances in the previous 12 months, and the general disciplinary nature of the regime.⁴⁴⁴ In response to the report, the school refused to re-consider its use of corporal punishment, believing it was the only method to control "some of the very lowest types any institution has had the misfortune to receive", though it confirmed that it did not inflict "dietary punishments".⁴⁴⁵ The SED's Under-Secretary commented wryly on the school's belief that "psychopaths" should not be admitted to approved schools:

The Managers' letter shows that in their view the removal of psychopaths from the schools is essential if the school is to run efficiently. It is doubtful whether their use of the word 'psychopath' is strictly justified; in any case the words

⁴³⁹ NRS ED15/175/1, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 29 March 1959 at SGV.001.009.1814-1818.

⁴⁴⁰ NRS ED15/246, confidential note, J. A. McPherson, H.M. Inspector of Schools, SED, 6 October 1958, at SGV-000061826, pp.2-3.

⁴⁴¹ NRS ED15/246, confidential note, J. A. McPherson, H.M. Inspector of Schools, SED, 6 October 1958, at SGV-000061826, pp.2-3.

⁴⁴² NRS ED15/246, minute, W. M. Morrison, Principal, SED, 15 September 1960, at SGV-000061826, p.107. Lady Elliot, the Chair of SACCC, was visiting the school as a member of her local Probation Committee. In the House of Lords, she sat on the Government benches; for a note of Lady Elliot's concerns see, minute of meeting of SED with the headmistress, 10 August 1959. Attending on behalf of the SED were J. Kidd, Assistant Secretary, D. S. Petrie, H.M. Inspector of Schools, and W. M. Morrison, Principal.

⁴⁴³ NRS ED15/246, minute, J. A. MacPherson, H.M. Inspector of Schools, SED, 29 October 1958, at SGV-000061826, p.4.

⁴⁴⁴ NRS ED15/246, SED report on Dr Guthrie's Girls' School, July 1959, at SGV-000061826, pp.12-44.

⁴⁴⁵ NRS ED15/246, letter, Dr Guthrie's School, enclosing Managers' comments on Report by the SED, 1 September 1959, at SGV-000061826, pp.56-67.

'psychopathic' and 'psychotics' have no generally agreed meanings and possibly the Guthrie Managers are referring all the time to "very difficult girls".⁴⁴⁶

As far as the school was concerned, only "a regime of strict discipline and complete confinement" would secure the "remedial and restraining effects" the system desired.⁴⁴⁷

A similar punishment issue arose at Wellington Approved School in 1959, now under a new headmaster. In this case by talking to pupils the H.M. Inspector of Schools uncovered that the headmaster had instituted a modified track system where as a form of punishment boys were made to stand by a bench for a period of time whilst other boys could sit and talk.⁴⁴⁸ The SED's medical officer indicated that given their age any form of prolonged standing without movement after a meal "was likely to be harmful to growing boys".⁴⁴⁹ An additional form of punishment centred on boys "scrubbing" the large hall's floor until it was clean and then repeating the exercise even although it was already clean. The Chairman of the School Governors gave an under-taking that the system would be discontinued.⁴⁵⁰ The circumstances surrounding the school were subsequently reviewed by Maclay, the Secretary of State, who agreed with the SED's actions.⁴⁵¹

Whilst the draft Care and Training Regulations, 1952, had not covered the issue of diet, the SED had accepted the necessity to modernise the kitchens at Dr Guthrie's Boys. The same applied to St Joseph's, Tranent, after 1953 when a H.M. Inspector of Schools' report indicated that to achieve a certain standard of dietary provision its governors should undertake the renovation of the kitchen, and provide a late supper snack to avoid "excessive" eating at high tea to combat later hunger.⁴⁵² Although the governors in reply stated that its quarterly medical officer's report was satisfactory in regard to the boys' physical condition and fitness, they agreed to the suggestion of a

⁴⁴⁶ NRS ED15/246, minute, A. G. Rodger, Under-Secretary, SED, written after meeting of officials held on 14 September 1959; see also ED15/275 Headmistress' letter, 12 September 1958, at SGV.001.008.5445.

⁴⁴⁷ ED15/275, Headmistress' letter, 12 September 1958, at SGV.001.008.5445.

⁴⁴⁸ NRS ED15/175/1, minutes, J. A. MacPherson, H.M. Inspector of Schools, SED, 12 February, at SGV.001.009.1819; 29 March 1959, at SGV.001.009.1814-1818.

⁴⁴⁹ NRS ED15/175/1, minutes, J. A. McPherson, H.M. Inspector of Schools, SED, 12 February, at SGV.001.009.1819; 29 March 1959, at SGV.001.009.1814-1818.

⁴⁵⁰ NRS ED15/175/1, submission, A. G. Rodger, Under-Secretary, SED, 5 April 1960, at SGV.001.009.1923-1928. The submission was seen and approved by W. F. Arbuckle, Secretary, SED.

⁴⁵¹ NRS ED15/175/1, minute, Maclay, 12 April 1960, at SGV.001.009.1923. Maclay suggested some drafting alterations to the letter to the School, at SGV.001.009.1931-1933.

⁴⁵² NRS ED15/325, report, J. A. McPherson, H.M. Inspector of Schools, SED, 10 April 1953, at SGV.001.009.3360.

pre-bedtime snack, but balked at the renovations as the work would exceed the School's Estimate for that year.⁴⁵³

In 1959 a considerably higher level of anxiety on diet was expressed at Dr Guthrie's Girls School where the inspection report noted above indicated that the expenditure per meal per week for each girl was 17 shillings.⁴⁵⁴ This compared to £2/3/1d for each member of staff. Further enquiry by the SED revealed that the average weekly expenditure for all households on food was £1/8/8d, with the expenditure of lower income households between £1/5/- and £1/6/11d.⁴⁵⁵ As the SED's Under-Secretary commented there had been "an under generous feeding" of the girls in comparison with the staff.⁴⁵⁶ The school agreed to revise its menus and confirmed that its supply of milk had increased with fish provided at least once a week. "Pre-pared food" was to be "served only rarely."⁴⁵⁷

In the period immediately after 1945 leading up to the SED discussions on the Care and Training Regulations 1961, there is little evidence that the word "abuse" was used in official documents. It was certainly the case that the SED noted the dismissal of approved school staff for what would now be termed physical and sexual abuse. Equally important, where there was a severe breach by headteachers in the Care and Training Regulations, 1933, or where they appeared generally unsuitable, the SED were not inactive in their dismissal.⁴⁵⁸ Beyond that the SED acknowledged that there was no "irregularity" when corporal punishment was administered within the Care and Training Regulations, 1933. Significantly the same Regulations did not stipulate the actual dietary requirement of pupils. Such was open to interpretation, though in the period after 1952 it is evident that the SED held concerns over its adequacy and nutritional value. In this and other areas, following ministerial direction, the SED's definition of inappropriate care, neglect or abuse rested principally in terms of the breach of Regulations.

Children's homes, 1945-59

⁴⁵³ NRS ED15/325, letter, St Joseph's School, 29 June 1953, at SGV.001.009.3365.

⁴⁵⁴ NRS ED15/246, SED report on Dr Guthrie's Girls' School, July 1959, at SGV-000061826, p.43.

⁴⁵⁵ NRS ED15/246, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 18 September 1959, SGV-000061826, p.84. The information was taken from the Government's National Food Survey.

⁴⁵⁶ NRS ED15/246, minute, A. G. Rodger, Under-Secretary, SED, written after meeting of officials held on 14 September 1959, at SGV-000061826, p.79.

⁴⁵⁷ NRS ED15/246, letter, Dr Guthrie's School, enclosing Managers' comments on Report by the SED, 1 September 1959, at SGV-000061826, p.64.

⁴⁵⁸ At Balgay the Headmistress retired in 1960, three years after the incident reported in 1957, see NRS ED15/482, report, J. A. McPherson, H.M. Inspector of Schools, SED, 26 September 1961, at SGV.001.009.4223-4226.

The retained records at NRS cover only a relatively small number of children's homes and allied institutions in any detailed form. Those that have been retained, probably reflecting the lack of regulatory specificity contained within the Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1947, generally cover papers between the childcare inspectors and SHD administrative officials at divisional level, rather than reports and minutes referred to departmental under-secretaries and ministers. Nevertheless, it is possible to deduce an understanding within the SHD of what constituted unsatisfactory care, if not neglect or abuse.

As Section 3a indicated the Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1947, stated that a local authority should satisfy itself of the progress of a child's education in an institution, and by implication where a child had been placed in a voluntary home. The Regulations also stated that a fostered child should be brought up in the "habits of industry", though the precise level of what this meant was not stated, other than training in the habits of "cleanliness and neatness".⁴⁵⁹ Thus, beyond ensuring the provision of education, the Regulations said little about a child undertaking training in the home for future employment. Yet during the post-war period the use of girls for laundry work in voluntary homes was not uncommon.

In 1948 the report of the Child Care Inspector for the Dumfries and Galloway Girls' Home commented that it was customary to retain the girls for a year after the age of 15 to work unpaid in the laundry and in other allied duties, principally to enable them to gain employment afterwards.⁴⁶⁰ The home described itself as both a home and a training school, and it would appear that a number of local authorities were prepared to place girls with the object of training in domestic service. The SHD Principal who held responsibility for children services noted the report and commented, "does 'custom' amount to what is practically compulsion?".⁴⁶¹ He sought assurances that arrangements were made to place the girls in suitable employment after leaving the institution. After the next inspection the Principal was assured that this was the case, the majority of girls being placed in work of "a domestic nature".⁴⁶²

⁴⁵⁹ Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1947, 5 (c) & 5 (b), at LEG.001.001.0128-0137.

⁴⁶⁰ NRS ED11/441/1, report, M. J. Morrison, Child Care Inspector, SHD, 1 November 1948, at SGV.001.009.5308. Morrison, appointed in 1946 as a DHS inspector of boarded-out children, was transferred to the staff of the SHD's Welfare and After-Care Service as a result of the concentration of child care inspectors within the SHD following the implementation of the Children Act, 1948. She was a State Registered Nurse and Midwife who also held a certificate in health visiting. Morrison had experience as a local authority Infant Life Protection Visitor and School Nurse, see TNA T162/918, 'Applicant for post of woman inspector of boarded-out children'.

⁴⁶¹ NRS ED11/441/1, minute, T. M. Martin, Principal, SHD, 21 March 1949, at SGV.001.009.5171.

⁴⁶² NRS ED11/441/1, minute, M. J. Morrison, Child Care Inspector, SHD, 14 May 1949, at SGV001.009.5164; see also report, M. J. Morrison, Child Care Inspector, SHD & Dr. I. M. Seymour, Medical Officer, DHS, 14 May 1949.

On the issue of compulsion to undertake domestic service, the Child Care Inspector was more circumspect, stating only that no girls were used where suitable arrangements could be made to place them in other work. Two years later it was confirmed that the "trainees" remained paid at 2/6d a week, though they did "practically all the housework", an amount that the Child Care Inspector thought ought to be raised.⁴⁶³ By 1956 the Home's only trainee was paid 6/- a week.⁴⁶⁴

Similar concerns were raised in 1954 at the Dundee Orphan Institution (another Home which listed itself as a training institution) where the Child Care Inspector commented in some detail on the work that two girls undertook, one aged 15, and another close to that age, stating:

They rise at 6.45a.m., and have two evenings off in the week from 5 o'clock and are off every Saturday afternoon and every second Sunday afternoon. They also, of course, stop for meals time and are not on duty all the time. They get no wages but are given 10/- or 15/- a week as pocket money. They do not keep banks. The insurance cards are stamped but they are given credits because they are "in receipt of training". B assists in the laundry and has learnt to set tables. She does some darning and keeps her own clothes. She had not learnt any cookery. A also assists in the laundry and helps to set tables. Occasionally she escorts children to school.

The H.M. Inspector for Schools felt that these girls are not receiving proper training. There is no indication that the two girls...were doing other than providing cheap labour. The practice of retaining children beyond school leaving age for such a purpose is contrary to the interests of the children.⁴⁶⁵

⁴⁶³ NRS ED11/441/1, minute, J. Neilson, SHD, covering report, H. R. Harrison, A.R.R.C., Child Care Inspector, SHD, 5 April 1951, at SGV.001.009.5178. In March 1931 Harrison was appointed an agent to the then Scottish Juvenile Welfare and After-Care Office ahead of the passage of Probation of Offenders (Scotland) Act, 1931. Her duties covered the after-care of 'delinquent females' and the inspection of probation homes. Following the Children and Young Persons (Scotland) Act, 1932, she was authorised to inspect voluntary homes, see TNA T162/361, letter, P. J. Rose, Assistant Under Secretary, Scottish Office, 14 Nov. 1934. At appointment Harrison was said to be 'well qualified by experience and training'. She was a Commandant of the Voluntary Aid Detachment of nurses, honorary secretary to the Edinburgh Home for Babies and School of Mothercraft, a committee member of the Queen Victoria Jubilee Institute for Nurses, Edinburgh, and member of the Edinburgh & District Juvenile Organisations Committee, see *Scotsman*, 'Homes for babies', 20 October 1920, & 26 May 1925, 'Queen's Nurses: Her Grace's visit', 30 May 1927, 'Jubilee Nurses', 28 May 1928, 'Home for babies', 27 November 1928, 'The peacetime VAD', 20 November 1929, 'The tipping habit', 19 June 1930. In 1930 Neilson had been appointed as a clerk in the Scottish Juvenile and After Care Office, see TNA T162/361, 'Particulars of Staff' attached to letter, Scottish Office, 10 November 1932, and letters, Scottish Office, 14 December 1933, & 15 June 1934. From the file minutes it would appear Neilson continued to provide office support to the SHD's Child Care and Probation inspectors in the post-war period.

⁴⁶⁴ NRS ED11/441/1, report, N. C. J. Sharp, Child Care Inspector, SHD, 26 October 1956, at SGV.001.009.5200.

⁴⁶⁵ NRS ED11/442/1, report, W. N. Smith, Child Care Inspector, SHD, 30 March 1954, at SGV.001.009.5432.

SHD noted that a follow-up visit should take place six months later, but the succeeding file has not been retained.

The use of girls in children's homes for laundry work appeared a contributory factor in the Lochburn disturbances in 1958 where a large number of girls demonstrated on its roof and otherwise absconded. In this case the Home, a training institution, operated the laundry as a commercial undertaking, principally to ensure its flow of income. Following the disturbance, in December 1958 Dundee's Cobden Girls' Home was assured that the maintenance of a laundry in which its girls would work was not in conflict with official policy.⁴⁶⁶ The statement may have been designed to encourage the Lochburn directors to re-open the institution, closed after the disturbance, but if it was it was unsuccessful.⁴⁶⁷ Its Chairman had stated that the SHD told them that there was a "real need for such establishments"—voluntary homes acting as approved schools.⁴⁶⁸ Thus, despite some concerns in the period before the Children's Homes Regulations, 1959, the retention of children beyond or approaching school-leaving age and their use for menial tasks at best for pocket money was not considered an issue of abuse, despite the quality of training offered.

Section 3a has indicated that the Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1947 stated that foster parents should "not administer indiscriminate or harsh punishment". Whilst the Regulations also covered children that a local authority placed in a children's home, including voluntary homes, the SHD's statutory responsibility to review the disciplinary regimes in such homes would appear somewhat opaque. For example, in May 1948 the inspection report indicated that the majority of girls in the Dumfries and Galloway Girls' Home had been placed by local authorities and recorded that punishment took the form of the withdrawal of privileges.⁴⁶⁹ It also stated there was no actual corporal punishment. The home introduced a punishment book, as recommended by the inspectors, and in 1951 the inspection report recorded one of the entries as being a "girl had been smacked with a slipper for biting. Miss FAP said she only gave her two or three strokes with her knickers off".⁴⁷⁰ The Inspector advised that in future where corporal punishment was to be used, the "knickers should be left on", and added that if the advice was not

⁴⁶⁶ NRS ED11/483/1, SHD letter, 23 December 1958, cited in notes on the Home ahead of a Departmental meeting with its managers, E. M. A. Montgomery, SED, 5 July 1962, at SGV-000085404, p.45. Montgomery became a SED Senior Executive Office in 1964.

⁴⁶⁷ *Times*, "Sequel to mass escape; Home for girls to be sold", 11 December 1958; see also NRS ED11/487, SHD submission, 6 October 1958; NRS ED15/275, SED minute, 17 October 1958, at SGV.001.008.5452; and minutes, 11 November, at SGV.001.008.5469, and 1 December 1958, at SGV.001.008.5477.

⁴⁶⁸ *Times*, "Sequel to mass escape; Home for girls to be sold", 11 December 1958.

⁴⁶⁹ NRS ED11/441/1, report, M. J. Morrison, Child Care Inspector, SHD, 4 May 1948, at SGV.001.009.5317.

⁴⁷⁰ NRS ED11/441/1, report, H. R. Harrison, A.R.R.C., Child Care Inspector, SHD, 24 March 1951, at SGV-001.009.5284-5285.

accepted, at the next visit "a stronger protest should be made."⁴⁷¹ The home appears not to have maintained its log book for punishment returns, and at subsequent visits the Inspectors felt unable to comment further on the use of corporal punishment.⁴⁷²

At the Dundee Orphan Institution in 1949, after the directors had been informed that in consequence of the Children Act, 1948, a local authority could place children in the institution, the inspection recorded that, "[t]here had been no entries in the Punishment Book since February 1948. Mr. Davison finds the deprivation of a privilege or threat of it quite sufficient. When the strap is used he will note the occurrence."⁴⁷³ Subsequent inspection reports did not cover the issue of discipline, but the inspection in 1954 recorded that 11 out of the 43 children had been placed by local authorities.⁴⁷⁴

A similar report was recorded at Greenock Girls' Home in 1949, an approved school which was seeking registration as a children's home. The Inspector noted that, "corporal punishment is not barred, but has not been used since August last year. The children are deprived of privileges and sometimes deprived of their sweet at dinner. A punishment book is kept".⁴⁷⁵ Its formal conversion into a children's home was subsequently approved.⁴⁷⁶

It would appear that in the period before 1959 the SHD accepted that it held a responsibility to ensure children's homes kept a punishment book, but that its powers of enforcement were somewhat limited. It is also evident that the SHD preferred the withdrawal of privileges, rather than corporal punishment, but if such was used, it should be recorded and kept within certain limits, as appeared with the slipper incident at the Dumfries and Galloway Girls' Home. If it was kept within those limits, then the action would not amount to the provision of inappropriate care, and certainly not abuse.

Section 3a has indicated that the Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1947, stated that a fostered child should be supplied with food that was "wholesome, varied and sufficient to maintain good health". The child care inspection reports for the 1950s from retained NRS files on the Greenock Girl's Home,

⁴⁷¹ NRS ED11/441/1, report, H. R. Harrison, A.R.R.C., Child Care Inspector, SHD, 24 March 1951, at SGV-001.009.5284-5285.

⁴⁷² NRS ED11/441/1, report, H. R. Harrison, A.R.R.C., Child Care Inspector, SHD, 22 May 1953, at SGV.001.009.5248-5249.

⁴⁷³ NRS ED11/442/1, report, W. N. Smith, Child Care Inspector, SHD, 15 October 1949, at SGV.001.009.5498; minute, T. M. Martin, Principal, SHD, 24 July 1948, at SGV.001.009.5507.

⁴⁷⁴ NRS ED11/442/1, report, W. N. Smith, Child Care Inspector, SHD, 30 March 1954, at SGV.001.009.5431.

⁴⁷⁵ NRS ED20/41, report, W. Hewitson Brown, Chief Inspector, Child Care and Probation, SHD, 8 February 1949, at SGV-000085271, p.11.

⁴⁷⁶ NRS ED20/41, minute, A. J. Betts, Principal, SHD, 11 February 1949, at SGV-000085271, p.4.

Aberlour's Holiday Home at Hopeman, and Glasgow's Clyde Cottage at Dunoon, do not reveal any issue relating to the diet provided.⁴⁷⁷ By contrast, the reports on the Dundee Orphanage Institution revealed a concern on its adequacy. In 1951 the Inspector commented on the need to increase the protein intake and repeated this comment in 1952 noting the lack of a cooked tea.⁴⁷⁸ At the next visit the Inspector's comments were more explicit.

Criticism was made on the last visit that the diet looked unattractive and that carbo-hydrates predominated. I saw the children having their tea which consisted of macaroni and cheese, tea, bread and butter. Mrs. Meldrum had said [that] before going into the dining room, the children had also had a cookie. It must have been consumed before I arrived. Mrs. Meldrum felt also that she was now offering more variety and remarked that she was giving high tea three times a week.⁴⁷⁹

The SHD noted that a further visit should take place later that year, though as the subsequent file has not been retained, the outcome is unknown.

Similar comments were made by the inspectors at Dumfries and Galloway Girls' Home. The report for 1951 commented:

On the day of my visit the girls had porridge, tea, and bread and butter for breakfast. Milk and "pieces" at school, and broth, corned beef and potatoes for dinner. They were to have plain tea with scones, etc. I asked Miss [FAP] to ensure to give the girls a cooked dish for tea every night, or failing that, fruit.⁴⁸⁰

The next visit in May 1952 recorded that the girls had a "cooked dish" at tea-time, the previous night it had been sausage and egg.⁴⁸¹ The SHD agreed that the dietary should remain an item on the inspection schedule.⁴⁸² A year later the inspector's suggestion for tea-time meals was confirmed, though it was commented that they had advised that at dinner on meatless days the children should have "a substantial

⁴⁷⁷ For instance, NRS ED11/524/1, report, W. N. Smith, Child Care Inspector, SHD, on Dunoon, 29 July 1959; ED11/444/1, report, M. J. Morrison, Child Care Inspector, SHD, on Aberlour, 14 August 1956, at SGV.001.002.6048-6049; NRS ED20/41, report, Child Care Inspector, SHD, on Greenock, 11 November 1953, at SGV-000085271, pp.6-7.

⁴⁷⁸ NRS ED11/442/1, reports, M. J. Morrison, Child Care Inspector, SHD, 11 October 1951, at SGV.001.009.5484-5485; 12 December 1952, at SGV.001.009.5469-5470.

⁴⁷⁹ NRS ED11/442/1, report, W. N. Smith, Child Care Inspector, SHD, 30 March 1954, at SGV.001.009.543; see also the Inspector's minute, 30 March 1954, where it was suggested that another SHD Child Care Inspector, M. J. Morrison, and Dr. I. M. Seymour, Medical Officer, DHS, might examine the Home's weekly menu, at SGV.001.009.5426-5427.

⁴⁸⁰ NRS ED11/441/1, report, H. R. Harrison, A.R.R.C., Child Care Inspector, SHD, 24 March 1951, at SGV.001.009.5284.

⁴⁸¹ NRS ED11/441/1, report, H. R. Harrison, A.R.R.C., Child Care Inspector, SHD, 30 May 1952, at SGV.001.009.5272.

⁴⁸² NRS ED11/441/1, minute, J. D. Neilson, SHD, 27 October 1952, at SGV.001.009.5183.

pudding”, adding that, “I noted on the diet sheet that one day they had soup and milk pudding and apples and I suggested that an apple dumpling would have been more satisfactory. I also urged her to have as much fruit and vegetables as possible.”⁴⁸³ The next report indicated that fruit was “available two or three times a week.”⁴⁸⁴

The evidence from the retained files, however incomplete, suggests that in relation to the dietary standards within voluntary homes the SHD followed the Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1947. Whilst the word “abuse” was not used within the reports and minutes, it saw the absence of protein, fruit and vegetables as not providing “a wholesome, varied and sufficient” diet “to maintain good health”.

The Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1947, made no specific mention of the dormitory accommodation in children’s homes, except to ensure their “well-being”. However, the regulations that covered foster homes specified that a local authority should approve the sleeping arrangements, including noting the condition of the beds, and the provision of bed-clothes and night apparel. It also included the necessity to secure fire guards to prevent a child being burnt or scalded. Beyond the regulations, SHD policy towards children homes’ dormitory accommodation was influenced by the recommendations of the Clyde Committee on Homeless Children and its own Advisory Committee on Child Care, as indicated in Section 3a. Policy, as such, was to encourage children’s homes away from dormitories that housed large numbers of children towards less anonymous smaller homes based on the notion of a family-style group.

Over the period 1949-58, at Aberlour’s Holiday Home at Hopeman, the principal concern within the inspection reports related to concerns on fire safety, both in the provision of fire doors and other means of escape. In 1949, after a report by the DHS’s medical officer, the SHD noted that there was “more than one fire escape not working” and that fire escape drill was not practised.⁴⁸⁵ The lack of fire drill was noticed again in 1955 and the following year it was recorded that, as the door was

⁴⁸³ NRS ED11/441/1, report, H. R. Harrison, A.R.R.C., Child Care Inspector, SHD, 22 May 1953, at SGV.001.009.5248.

⁴⁸⁴ NRS ED11/441/1, report, N. C. J. Ramsay, Child Care Inspector, SHD, 13 May 1954, at SGV.001.009.5239.

⁴⁸⁵ NRS ED11/444/1, SHD minute, 5 September 1949; see report, Dr. I. M. Seymour, Medical Officer, DHS, 22 August 1949, at SGV.001.002.6034.

tied back, "the smoke-screen stop [was] useless."⁴⁸⁶ The latter issue resurfaced in 1958 when the Inspector reported that:

it was pointed out to Mr. Wells that the smoke-stop door must be kept closed during the night. Where there are young children a member of staff should be nearer the children at night than is possible with the present arrangements.⁴⁸⁷

The Chief Inspector, Child Care and Probation noted the issue and gave directions that the Home should be visited the following year rather than delay until 1960.⁴⁸⁸

The inspection reports from the Dundee Orphanage Home and the Greenock Girls' Home indicated no substantive concerns regarding fire-safety and means of escape secured.⁴⁸⁹ Earlier reports from the Dumfries and Galloway Girls' Home did reveal issues but by 1955 it was stated that fire drills appeared to have been practised "fairly regularly", though the Child Care Inspector recommended that they should occur once a month.⁴⁹⁰ At Dr. Barnardo's Craigerne Home near Peebles a Child Care Inspector reported that the local Fire Prevention Officer had inspected the property to ensure that the Fire Brigade's recommendations had been implemented, which they had.⁴⁹¹

In 1945 one of the Aberlour Orphanage's boys had drowned during a group outing to the River Spey at Polshuan.⁴⁹² As Hopeman was a holiday home the issue of bathing safety was raised during the 1951 inspection, when 39 senior boys were in residence. The report stated:

I discussed bathing precautions with Mr. Smith [the Housemaster] and he said that he carried out the regulations for Scouts and generally stayed on shore while the boys were bathing, but on occasion went in with them. He assured me that, with reasonable precautions, bathing was quite safe at Hopeman. They

⁴⁸⁶ NRS ED11/444/1, minute, W. N. Smith, Child Care Inspector, SHD, 22 July 1955, at SGV.001.002.6040-6041; minute, J. D. Neilson, SHD, 17 August 1956, after report, M. J. Morrison, Child Care Inspector, SHD, 14 August 1956, at SGV.001.002.6041.

⁴⁸⁷ NRS ED11/444/1, report, M. J. Morrison, Child Care Inspector, SHD, 2nd September 1958, at SGV.001.002.6045; see also minute, J. D. Neilson, SHD, 4 September 1958, at SGV.001.002.6042.

⁴⁸⁸ NRS ED11/444/1, minute, W. Hewitson Brown, Chief Inspector Child Care and Probation, SHD, 5 September 1958, at SGV.001.002.6042.

⁴⁸⁹ For instance, NRS ED11/442/1, report, W. N. Smith, Child Care Inspector, SHD, 30 March 1954, at SGV.001.009.5431-5433; NRS ED20/41, minute covering report, W. Hewitson Brown, Chief Inspector, Child Care and Probation, SHD, 8 February 1949, at at SGV-000085271, p.3, and report, Child Care Inspector, 11 November 1953, at at SGV-000085271, pp.6-7.

⁴⁹⁰ NRS ED11/441/1, reports, N. C. J. Ramsay, Child Care Inspector, SHD, 13 May 1954, at SGV.001.009.5239; 7 February 1955, at SGV.001.009.5233; and as N. C. J. Sharp, 26 October 1956, at SGV.001.009.5200.

⁴⁹¹ NRS ED28/155, report, W. N. Smith, Child Care Inspector, SHD, 7 December 1956, at SGV.001.002.9822.

⁴⁹² *Aberdeen Press & Journal*, "Boy drowned in river Spey", 20 July, & "Boy's body recovered", 21 July 1945.

have a large hut on the beach and as there are only a limited number of bathing costumes, the number of boys who are in the water at the same time is strictly limited.⁴⁹³

As the report was generally satisfactory the following year the SHD agreed that the home should be registered as a voluntary home.⁴⁹⁴

In the period after 1945 leading up to the SHD discussions on the Children Homes Regulations, 1959, as with the SED on approved schools, there is little evidence that the word "abuse" was used in official documents. It was certainly the case that the SHD officials were concerned about the use of child labour, (whether it was neatly termed "training" or not), but, apart from ensuring that a child was remunerated at an appropriate rate, the Children (Boarding-out etc.) (Scotland) Rules and Regulations, 1947, assumed that a child would assist in household chores, and thus acquire the "habits of industry". In any case after the 1958 Lochburn disturbances the SHD maintained the view that laundry work was an acceptable form of "training", even if it was "drudgery". Equally important, in so far as it impacted on the removal of a child from foster parents, there was little specificity within the Regulations on what was meant as "indiscriminate or harsh punishment" (case law suggested that the SHD should follow the 1945 Fife and Aberdeenshire judgements, which, in part, were reflected within the 1947 Regulations, as indicated in Section 3a). Significantly the same Regulations did not stipulate the actual dietary requirement of a child within children's homes, other than that a local authority fostered child should be supplied with food that was "wholesome, varied and sufficient to maintain good health". The lack of detail ensured the need for considerable education by the SHD as to what it meant in practice. SHD officials also took action where a children's home did not implement certain fire safety procedures and when children undertook swimming. In this and other areas the SHD's definition of inappropriate care, neglect and abuse rested principally on the breach of the Regulations, which, in relation to children's homes, required a certain interpretive ingenuity.

Approved and List D Schools, 1961-74

In 1959 a series of disturbances lasting several days occurred at Carlton Approved School in Hertfordshire, an incident that appeared to have no parallel in Scotland. Windows and fittings were smashed with a number of staff injured. The Home Office report investigating the boys' grievances found several breaches of the punishment

⁴⁹³ NRS ED11/444/1, report, H. R. Harrison, A.R.R.C., Child Care Inspector, SHD, 8 August 1951, at SGV.001.002.6071.

⁴⁹⁴ NRS ED11/444/1, minute, W. L. Ross, Higher Executive Officer, SHD, 5 April 1952, at SGV.001.002.6037. From the file minutes it would appear that Ross provided the Child Care Inspectors with office support similar to Neilson above.

regulations.⁴⁹⁵ In Scotland, the disturbance at Lochburn in 1958, apart from the absconding, was mainly confined to damage to the roof and interior fittings, but with no attacks on the staff. An earlier disturbance at Dr Guthrie's Boys in 1949 led to 27 pupils escaping, but the details are scant as a schoolmaster refused comment to the press.⁴⁹⁶ Three years later, at Dr Guthrie's Girls a disturbance resulted in a "mass break-out" with allegations of bullying between the pupils.⁴⁹⁷ A new headmistress was appointed in June the following year.⁴⁹⁸ In 1956 at an un-named school three boys claimed in court that they had been "bullied and struck by other boys who also stole or purloined their food at mealtimes".⁴⁹⁹ As indicated in Section 3c, Scottish Office ministers responded to the Carlton disturbance and to representations from several approved schools by establishing a secure unit for "unruly" boys at Rossie. Further measures to strengthen approved school management and defuse potential administrative weaknesses, which were thought to have contributed to the Carlton disturbance, were held over for inclusion within the Criminal Justice (Scotland) Bill.⁵⁰⁰ The SED (which held responsibility for approved schools) and SHD (which held responsibility for oversight of the courts) evidently believed that such responses, however adequate they may have appeared, were not sufficient to meet systemic issues that surrounded the committal of children to approved schools, or the schools themselves. In the light of a Home Office report on the working of the law relating to juvenile courts, at the end of 1960 they advised ministers that a separate Scottish inquiry should be held.⁵⁰¹ The Departments believed that the Home Office inquiry "had failed to grasp the nettle" on the central issue of "juveniles in need of care and protection". To underline their argument, they minuted that:

Our view is that there is a case for the more radical ad hoc committee type of review. Although there has been little public criticism of the arrangements for dealing with juvenile offenders in Scotland, we are doubtful if the arrangements,

⁴⁹⁵ [Cmnd. 937] Home Office, *Disturbances at the Carlton Approved School on 29th and 30th August 1959; Report of Inquiry by Mr. Victor Durand, Q.C.*, (January 1960), especially paras 82-113, at LEG-000000128.

⁴⁹⁶ *Scotsman*, "Boys escape from Approved School", 26 September 1949.

⁴⁹⁷ *Edinburgh Evening News*, "'Rebellion' at Approved School for Girls", 31 December 1952; *Dundee Courier*, "Five unruly girls in court", 5 January 1953. The H.M. Inspector of Schools' report of the incident has not been retained at NRS, though this may have been the occasion when matters "were over the edge" as reported in 1967, see ED15/409, minute, J. A. McPherson, H.M. Inspector of Schools, SED, March 1967, at SGV-000061831, pp.48-49.

⁴⁹⁸ *Wishaw Press and Advertiser*, "Youth Organiser's new post", 19 June 1953.

⁴⁹⁹ *Airdrie and Coatbridge Advertiser*, "'Bullying' at approved school – so boys left", 20 October 1956.

⁵⁰⁰ NRS ED15/364, submission, W. F. Arbuckle, Secretary, SED, 29 August 1960, at SGV-000067202, pp.120-122.

⁵⁰¹ [Cmnd. 1191] Home Office *Report of the Committee on Children and Young Persons*, (October 1960), at LEG-000000129; see also NRS HH60/726, SHD minutes, 19 & 23 October, 16 November 1960. The Committee also proposed new legislation on the prevention of neglect of children in their own homes, but that lay outside the issue of Approved Schools.

particularly the juvenile court system, provide a really satisfactory method of dealing with juveniles. We feel that the arrangements are too closely based on the adult criminal courts and that, where juveniles are brought before the court, they are too often dealt with by magistrates who have little direct experience of the treatment of juvenile offenders and little knowledge of the facilities available or their use. One result is a marked disparity in disposals from one court to the next.⁵⁰²

To highlight their concerns, they also minuted that the inquiry should not “be encouraged” to undertake the “detailed examination” of approved schools and remand homes.⁵⁰³ The Departments noted that SACCC was already examining “the provision and running of remand homes”, and officials believed that it could be asked to cover approved schools.⁵⁰⁴ The new Joint Parliamentary Under-Secretary of State, Brooman-White, and the Secretary of State, Maclay, agreed with the proposed inquiry and its remit.⁵⁰⁵ The Cabinet’s Home Affairs Committee subsequently approved the appointment of a Departmental committee of inquiry, and Maclay agreed it should be chaired by Lord Kilbrandon.⁵⁰⁶

Whether the Carlton disturbance and the decision to establish what became known as the Kilbrandon inquiry resulted in heightened ministerial concern towards approved schools is not clear, but it is evident that they gave directions on issues at Balnacraig (Junior) Girls’ School, Perth, and Springboig St John’s Boys School. Balnacraig was sanctioned to accommodate 30 girls. It was unusual in that its girls were educated at local schools and, in that sense, it was more of a home than a school, though it operated within the approved school regulations. Here the SED’s concerns related to its management, where after an apparent breakdown in inter-staff relations, the headmistress had gone on long-term sick leave.⁵⁰⁷ In mid-March 1961 the school was visited by an H.M. Inspector of Schools who reported, with considerable alarm, that the “recriminations” between staff had impacted on the pupils’ behaviour. He commented specifically that one of the housemother’s was

⁵⁰² NRS HH60/726, joint submission, J. Anderson, Secretary, SHD and W. F. Arbuckle, Secretary, SED, 5 December 1960, at SGV.001.009.0901.

⁵⁰³ NRS HH60/726, joint submission, J. Anderson, Secretary, SHD and W. F. Arbuckle, Secretary, SED, 5 December 1960, at SGV.001.009.0902.

⁵⁰⁴ NRS HH60/726, joint submission, J. Anderson, Secretary, SHD and W. F. Arbuckle, Secretary, SED, 5 December 1960, at SGV.001.009.0902.

⁵⁰⁵ NRS HH60/726, minute, Brooman-White, 14 December, at SGV.001.009.0802-0803; minute, Maclay, 19 December 1960, at SGV.001.009.0801.

⁵⁰⁶ TNA 134/1984 HA(61) 2nd meeting, minutes, 10 February 1961; NRS HH60/726, minutes, Maclay, 1 February 1961, at SGV.001.009.0763; 12 February 1961; 19 April 1961, at SGV.001.009.0704.

⁵⁰⁷ NRS ED15/484, report, D. S. Petrie, H.M. Inspector of Schools, SED, 20 March 1961, at SGV-000061811, pp.8-23.

unfit to be in command & has antagonised the girls, she is punitive in attitude & ineffective in execution – a dangerous combination of attributes. The situation is still potentially explosive – four girls on the roof on Sunday – 3 attempted abscondings on Monday.⁵⁰⁸

After another visit and speaking to the girls the H.M. Inspector of Schools commented that they “complained they were kept in too much & were bored in the evenings”, and noted that one girl, a voluntary admission by her local child care officer, had been in the school for seven years.⁵⁰⁹ The girl’s child care officer confirmed that a grandmother was able to look after her, but it appeared that the headmistress had been unwilling to agree to the discharge. The H.M. Inspector of Schools concluded by stating that “the fund of affection and loyalty to the school has not entirely been dissipated, but I think we should act with the utmost speed to halt a rapidly deteriorating situation”.⁵¹⁰ A further report established that the managers also thought that one of the other housemothers had proved unsuitable for the post stating that they had been “appalled by her cruelty and vindictiveness”.⁵¹¹ A report from the local Police indicated that prior to the intervention of the SED, 18 girls had absconded on eight different occasions, some returned from as a faraway as Kirkcaldy and Couper Angus, and that on one occasion,

When the detectives returned the girls to the school, they found it in a state of chaos. The girls had taken over from the staff, stair rods had been pulled out and there was a great deal of screaming and foul language and fighting.⁵¹²

With prompting from the SED, the school managers agreed to appoint a temporary headteacher, a third-in-charge from another approved school.

Brooman-White was informed of the action the SED had taken in securing the appointment, the minute stated that there had been

⁵⁰⁸ NRS ED15/484, report, D. S. Petrie, H.M. Inspector of Schools, SED, 14 March 1961, at SGV-000061811, p.6,

⁵⁰⁹ NRS ED15/484, report, D. S. Petrie, H.M. Inspector of Schools, SED, 20 March 1961, SGV-000061811, pp.8-23.

⁵¹⁰ NRS ED15/484, report, D. S. Petrie, H.M. Inspector of Schools, SED, 20 March 1961, SGV-000061811, pp.8-23.

⁵¹¹ NRS ED15/484, minute, (probably) W. M. Morrison, Principal, SED, c.23 March 1961, SGV-000061811, p.32. D. S. Petrie, H.M. Inspector of Schools, SED, accompanied the official.

⁵¹² NRS ED15/484, minute, (probably) W. M. Morrison, Principal, SED, c.23 March 1961, SGV-000061811, p.32. D. S. Petrie, H.M. Inspector of Schools, SED, accompanied the official.

an outbreak of extremely unruly behaviour during the absence on prolonged sick leave of the headmistress. The ability of her assisting staff to cope with the situation is doubtful.⁵¹³

The minute was seen by Maclay who issued an instruction that "control" within the school should "quickly be established" and asked to be kept informed of developments.⁵¹⁴

The SED reported later that the school appeared to have settled down with the interim appointment.⁵¹⁵ The headmistress returned to the school after an absence of two months by which time the two housemothers who had aroused such concern had left.⁵¹⁶ Whilst the reports on the school did not indicate evidence of physical abuse, irregular punishment or insufficient diet; the SED and Maclay accepted that the behaviour of the staff and the general tone of the establishment fell short of the care appropriate for an approved school. The collapse of management as witnessed by the Police had seen a high level of absconding, damage to property and girls fighting. To help restore order the school was informed that the roll was to be reduced to 25, a number said to be fixed "in light of modern thought" on the optimum size of any one group in institutional care.⁵¹⁷ The SED had noted that the headmistress preferred to manage the school as a single home rather than broken down into family groups. The school was also told not to accept voluntary cases to the exclusion of those committed by the court.

The issues at Springboig were not dissimilar to those at Balnacraig but were exacerbated by its much larger size—sanctioned accommodation for 120—and its designation as the only senior school for Roman Catholic boys. An H.M. Inspector of Schools report in early 1960 underlined the impact of a "lax" management where few rules existed:

I have been concerned for some time about the laissez-faire attitude of the Headmaster and staff at St. John's School. There is a complete lack of any systematic approach to the boys' general training. On the other hand it is

⁵¹³ NRS ED15/484, minute, R. J. W. Clark, Assistant Principal, SED (Private Secretary to A. F. Arbuckle, Secretary, SED), 30 March 1961, SGV-000061811, p.34.

⁵¹⁴ NRS ED15/484, minutes, Maclay, 4 April 1961, SGV-000061811, p.36; SED minute, N. D. Walker, Assistant Secretary, SED, 7 April 1961, SGV-000061811, p.39-40.

⁵¹⁵ NRS ED15/484, minute, W. M. Morrison, Principal, SED, 1 May 1961, SGV-000061811, p.51.

⁵¹⁶ NRS ED15/484, report, J. A. McPherson, H.M. Inspector of Schools, SED, 12 July 1961, SGV-000061811.

⁵¹⁷ NRS ED15/484, letters, W. M. Morrison, Principal, SED to The Perth Homes Trust, 9 May 1961, SGV-000061811, p.50; 10 July 1961; & minute, J. A. McPherson, H.M. Inspector of Schools, SED, 10 July 1961. On the intervention of the SED, the voluntary cases were returned to the care of their local authorities. The SED's preferred maximum within any one group was 20, but increased committals meant it had not been practicable to enforce that number; see [Cmnd. 1673] SED, *Education in Scotland in 1961. A report of the Secretary of State for Scotland*, (May 1962), p.91.

probably a happy school and a happy staff and the kind of atmosphere in which one would least expect the boys to 'Do a Carlton': the lads have probably too much affection for the Headmaster and other members of staff. It might be argued that this is the right way to run a school; have as few rules as possible and establish amicable relations between boys and staff. The influence of the staff can thus get through to the boys. If the Headmaster has any philosophy of training, it is probably just that. Other people however, might with some reason describe the school as slack and untidy and almost completely lacking in any system of training; boys are contained and entertained but not trained.⁵¹⁸

The SED agreed to inform the school's managers of the Inspector's concern, but when the managers responded that the "trend" in the school was moving towards "a formal system of grading", the Department accepted that the criticisms had "served a useful purpose".⁵¹⁹ It was "covered" that it had not taken action on the school's "inadequacies" which included a state where "disorder and violence among the boys was almost condoned".⁵²⁰

A further inspection occurred in early 1961 when it appeared that a grading system to reward attainment had not been implemented.⁵²¹ Indeed the H.M. Inspector of School noted three recent incidences of boys being stabbed by others, and a general level of fighting. The report again recommended the introduction of a grading system, assisted by the appointment of a welfare officer who would promote recreational activity. It also recommended the construction of a cottage within the grounds to assist the establishment of a house system, with 15-20 boys in each house (the latter would reduce the level of overcrowding in the main block). The SED's administrative branch that dealt with approved schools noted the report and minuted, "[i]n the main the troubles appeared to arise from the lack of response of a difficult lot of boys to a permissive regime with no system of discipline", and agreed that the Department should approach the school's managers on the lines suggested.⁵²²

⁵¹⁸ NRS ED15/337/1, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 5 February 1960, at SGV-000000068, p.2.

⁵¹⁹ NRS ED15/337/1, letter, Springboig St John's, 15 April 1960, at SGV-000000068, pp.9-10; minute, J. A. McPherson, H.M. Inspector of Schools, SED, 27 April 1960, at SGV-000000068, p.14; minute, W. M. Morrison, Principal, SED, 5 May 1960.

⁵²⁰ NRS ED15/337/1, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 27 April 1960, at SGV-000000068, p.14; see also ED15/409, minute, J. A. McPherson, H.M. Inspector of Schools, SED, March 1967, at SGV-000061831, pp.48-49.

⁵²¹ NRS ED15/337/1, reports, J. A. McPherson, H.M. Inspector of Schools, SED, 17 & 31 January 1961, at SGV-000000068, pp.20-25 and 26-28.

⁵²² NRS ED15/372/1, minute, Branch C meeting on approved schools, SED, item 6, 23 January 1961, at SGV-000000068. Attendees were N. D. Walker, Assistant Secretary, W. M. Morrison, Principal, R. J. Edie, Higher Executive Officer, and J. A. McPherson, H.M. Inspector of Schools.

At a series of meetings with the SED, the school's managers agreed with the recommendations, but indicated that they thought an additional senior school for Roman Catholic boys was necessary.⁵²³ The SED accepted that the school was too large, but as a new school would require a financial agreement between the Exchequer and the local authorities, and thus take time, it pressed the case for the immediate implementation of its recommendations.

Discussion on the proposals was accelerated in early November 1961 after the school's new headmaster reported a high level of absconding and constant fighting between the boys. The H.M. Inspector of Schools, on visiting the school twice within three days, accepted that it was "a near 'Carlton' situation".⁵²⁴ Apart from a general level of bullying he noted that in a gang attack "some boys" had "wounded" another "in the neck with a knife necessitating eight stitches at hospital."⁵²⁵ One of the culprits, the alleged ringleader, was later transferred to Rossie. The Inspector's report re-iterated the recommendation for a reduction in the roll and an increase in staff, but noted that:

There is no gymnasium and little equipment.

Only one football field.

There are inadequate facilities for a variety of evening activities.

There is no changing room – the boys change their clothing in corridors.

To accommodate large numbers there are two-tier beds in the dormitories. The existing workshops are inadequate to accommodate the large number of boys for day-time training.⁵²⁶

And added:

In the circumstances new boys should not really be admitted. In addition to being harmful, possibly even dangerous to the boy, it makes it virtually

⁵²³ NRS ED15/372/1, note of meeting, SED & Springboig St John's, 30 March 1961, at SGV-000000068, p.37; letter, Springboig St John's, 15 May 1961, at SGV-000000068, p.39. SED representatives at the meeting were N. D. Walker, Assistant Secretary, W. M. Morrison, Principal, and J. A. McPherson, H.M. Inspector of Schools.

⁵²⁴ NRS ED15/337/1, report, J. S. Murphy, H.M. Inspector of Schools, SED, 22 November 1961, at SGV-000000068, p.60.

⁵²⁵ NRS ED15/337/1, report, J. S. Murphy, H.M. Inspector of Schools, SED, 22 November 1961, at SGV-000000068, p.58. It was stated that the police refused to move the boy, and the SED agreed to approach the Crown Office, see ED15/372/1, minute, Branch C meeting on approved schools, SED, item 16, 25 January 1962. Attendees were B. J. Bennett, Principal, R. J. Edie, Higher Executive Officer, J. A. McPherson, H.M. Inspector of Schools, & J. S. Murphy, H.M. Inspector of Schools.

⁵²⁶ NRS ED15/337/1, report, J. S. Murphy, H.M. Inspector of Schools, SED, 22 November 1961, at SGV-000000068, p.57.

impossible to achieve an effective break with the bad discipline, habits and morale that have existed here. This of course is virtually impossible in the circumstances, but re-emphasises the urgent need for a second Roman Catholic Senior School. As soon as a second place is viable, it may well be desirable to run down the present St. John's so that the existing dangerous standards and traditions are eradicated. This was something which proved necessary at Carlton.⁵²⁷

The SED met the school's managers the following month where the previous agreement on additional staff and a new block was confirmed, as well as other proposed structural alterations to the school. It was also agreed that there was a need for a new "intermediate and senior school for Roman Catholic boys".⁵²⁸

In February 1962 the SED sought authority from Brooman-White to establish the school, informing him in light of the increase in approved school committals that:

The Springboig accommodation is very unsatisfactory and we are taking steps to improve it. Further, there has recently been a serious outbreak of indiscipline at this school, which is seriously perturbing the Managers and the Provincial of the religious Order which staffs it. They have strongly urged us to open a new school, partly to reduce the roll to a more manageable figure and partly to provide an alternative school to which some of the difficult boys could be sent, thus breaking up the gangs which so readily develop.⁵²⁹

The Minister agreed to the recommendation.⁵³⁰

Whilst the reports on Springboig did not reveal an administrative breakdown between staff, the H.M. Inspector of Schools noted that its culture had sustained bullying, violence and a lack of a systematic approach to training. The headmaster was characterized as a "permissive" man, who "did not check disorder" and failed "to record accurately the amount of punishment" that was inflicted.⁵³¹ As at Balnacraig, the SED believed that to prevent "indiscipline" and improve its management the number of pupils should be reduced and a house system established, the latter to

⁵²⁷ NRS ED15/337/1, report, J. S. Murphy, H.M. Inspector of Schools, SED, 22 November 1961, at SGV-000000068, p.59..

⁵²⁸ NRS ED15/337/1, note of meeting, SED & Springboig St John's, 5 December 1961, at SGV-000000068, pp.72-73. SED attendees were J. Kidd, Assistant Secretary, B. J. Bennett, Principal, J. A. McPherson, H.M. Inspector of Schools, & J. S. Murphy, H.M. Inspector of Schools.

⁵²⁹ NRS ED15/419/1, submission, A. G. Rodger, Under-Secretary, SED, 8 February 1962, at SGV-000066783, p.197.

⁵³⁰ NRS ED15/419/1, minute, Brooman-White, 12 February 1962, at SGV-000066783, p.200.

⁵³¹ NRS ED15/409, minute, J. S. Murphy, H.M. Inspector of Schools, SED, 18 August 1967 (with appendices), at SGV-000061831, pp.79-91.

create a “family” atmosphere.⁵³² Later in 1962 Springboig’s sanctioned accommodation was cut to 100.⁵³³

Approved school managers remained responsible for the appointment and dismissal of staff, though where grounds for dismissal existed the SED exercised a certain degree of influence. Such occurred in 1963 when the branch that covered approved schools received anonymous letters about Kibble after which it was agreed that,

although there was a general case for ignoring anonymous letters completely, the peculiar circumstances of approved schools probably justified some consideration being given to them. In the present instance H.M.I. ...was making further enquiries, but unless these revealed any disquieting circumstances no further action should be taken.⁵³⁴

It was subsequently recorded that,

The alleged misconduct with boys by a teacher...at Mossbank School was discussed. The allegations had only recently been made by boys, although the teacher had been serving in the Kibble School for several months. The police were investigating and would report to Glasgow Education Authority...The Headmaster of Kibble had been informed, and it was agreed that [the H.M.I.] should try to ensure that he reported the position to his Chairman. Glasgow Education Authority should be asked in due course for the result of the police enquiry.⁵³⁵

The SED then recorded that:

It was noted that the member of Kibble school staff concerned had resigned and was reported to have left the country. The Branch would await the result of the police enquiry into the allegations against him, and thereafter take such action as seemed necessary.⁵³⁶

⁵³² [Cmnd. 1975] SED, *Education in Scotland in 1962. A report of the Secretary of State for Scotland*, (April 1963), at LEG-000000197, p.91.

⁵³³ NRS ED15/372/1, minute, Branch C meeting on approved schools, SED, items 2 & 3, 5 November 1962, at SGV-000000065, pp.72-73. Attendees were J. Kidd, Assistant Secretary, B. J. Bennett, Principal, C. Greig, J. A. McPherson, H.M. Inspector of Schools, & J. S. Murphy, H.M. Inspector of Schools. Once the new Roman Catholic School was opened, its sanctioned accommodation was to be reduced to 80.

⁵³⁴ NRS ED15/372/1, minute, Branch C meeting on approved schools, SED, item 7, 4 April 1963, at SGV-000000065, p/89. Attendees were I. M. Wilson, Assistant Secretary, B. J. Bennett, Principal, & J. A. McPherson, H.M. Inspector of Schools.

⁵³⁵ NRS ED15/372/1, minute, Branch C meeting on approved schools, SED, item 1, 6 June 1963, at SGV-000000065, p.95. Attendees were I. M. Wilson, Assistant Secretary, B. J. Bennett, Principal, Mr. McKean, J. A. McPherson, H.M. Inspector of Schools, & J. S. Murphy, H.M. Inspector of Schools.

⁵³⁶ NRS ED15/372/1, minute, Branch C meeting on approved schools, SED, item 1, 20 September 1963, at SGV-000000065, p.105. Attendees were I. M. Wilson, Assistant Secretary, B. J. Bennett, Principal, Mr. McKean, C. Greig, J. A. McPherson, H.M. Inspector of Schools, & J. S. Murphy, H.M. Inspector of Schools.

Later the Scottish Office's Solicitor advised the SED that any further action should be taken by the Crown Office.⁵³⁷ The SED accepted that it should first seek the agreement of the school's managers on whether to take the matter further or not.

The same SED actions appear to have been exercised at Thornly Park, where the headmaster had been in post for 30 years. The H.M. Inspector of Schools commented:

Managers came and went and he found himself able to govern his managers. A thoroughly unhealthy system existed for many years in which staff and boys suffered greatly, though many of staff, of course, left to go to other more liberal climates, in some cases to the loss of the service.⁵³⁸

The Inspector noted that the headmaster had ruled the school "with a rod of iron" and that the staff at one stage had been "in a state of perpetual near-revolt".⁵³⁹ He took early retirement shortly before the SED agreed "to present to the managers a rather adverse report".⁵⁴⁰

A similar SED policy of seeking action to remove staff believed to have "strayed" outside the Approved School Rules and Regulations occurred at Kenmure St. Mary's. In 1965, after the "abuse of the boys", the H.M. Inspector of Schools minuted:

Kenmure - Irregularity of punishment on the part of the Headmaster (including special pants and pyjamas)

Action – Headmaster removed from the School and the work by his Catholic Order.⁵⁴¹

In this case it appeared Kenmure St Marys was the last school in Scotland where boys removed their ordinary trousers and "put on thin football pants" before

⁵³⁷ NRS ED15/372/1, minute, Branch C meeting on approved schools, SED, item 1(e), 8 June 1964, at SGV-000000065, p.134. Attendees were, B. J. Bennett, Principal, J. M. Lawson, Miss Hamilton, J. A. McPherson, H.M. Inspector of Schools, & J. S. Murphy, H.M. Inspector of Schools.

⁵³⁸ NRS ED15/307, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 22 January 1964, at SGV.001.009.2928.

⁵³⁹ NRS ED15/409, minute, J. A. McPherson, H.M. Inspector of Schools, SED, March 1967, at SGV-000061831, pp.48-49; see also NRS ED15/307, minute, J. A. MacPherson, H.M. Inspector of Schools, SED, 29 June 1967, at SGV.001.009.2971-2974.

⁵⁴⁰ NRS ED15/409, minute, J. A. McPherson, H.M. Inspector of Schools, SED, March 1967, at SGV-000061831, pp.48-49; see also NRS ED15/307, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 29 June 1967, at SGV.001.009.2971-2974.

⁵⁴¹ NRS ED15/409, minute, J. S. Murphy, H.M. Inspector of Schools, SED, 18 August 1967, at SGV-000061831, p.80; see also NRS ED15/307, minute, J. A. MacPherson, H.M. Inspector of Schools, SED, 29 June 1967, at SGV.001.009.2971-2974.

punishment.⁵⁴² The incidence of irregular punishment was brought to notice by a boy who had been transferred to another school.⁵⁴³ The H.M. Inspector of Schools further recorded that the new appointment had “rescued” the school from a regime “inimical to the physical and psychological wellbeing of the boys”.⁵⁴⁴

The regime of an approved school and the suitability of staff was also an issue at Geilsland, which the Social and Moral Responsibility Board of the Church of Scotland opened for senior boys in July 1964. A report the following year by the H.M. Inspector of Schools commended the headmaster on the “intensity of the training”, but raised concerns of “incidents of irregular punishments” and the use of the boys for menial tasks in the evening.⁵⁴⁵ Similar, but more detailed concerns, were raised by an inspection the following year when the school acknowledged the occurrence of three “irregular punishments”.⁵⁴⁶ On each of these occasions the boys had been struck on the face and on one of these occasions the medical record was altered. The report stated:

Alteration of Surgery Book

I saw Matron and examined the surgery book which, in respect of [boy], read as follows:-

1.5.66 Swelling of the Face, Pain to Right Ear after receiving punishment. After falling against a door.

[...]

The alteration consisted of a piece of paper pasted over “after receiving punishment” and addition of “After falling against a door”. I could not get a very

⁵⁴² NRS ED15/409, minute, J. S. Murphy, H.M. Inspector of Schools, SED, 18 August 1967, at SGV-000061831, p.82. The SED had formally warned the Headmaster that the punishment lay in contravention of Rule 31 (f) and (g), see letter, Headmaster, Kenmure St. Mary’s Boys’ School, 27 February 1964, at SGV-000061831, p.86.

⁵⁴³ NRS ED15/409, minute, J. S. Murphy, H.M. Inspector of Schools, SED, 29 March 1967, at SGV-000061831, pp.50-52.

⁵⁴⁴ NRS ED15/409, minute, J. S. Murphy, H.M. Inspector of Schools, SED, 18 August 1967, at SGV-000061831, p.81.

⁵⁴⁵ NRS ED15/486/1, letter, J. S. Murphy, H.M. Inspector of Schools, SED, 1 July 1965, at SGV-000000061, p/257. Amongst the concerns the report noted that there had been incidences of “irregular striking” and “cuffing”. The H.M. Inspector of Schools may have been forewarned on the issue by a ‘disgruntled’ member of staff, see NRS ED15/409, minute, J. S. Murphy, H.M. Inspector of Schools, SED, 29 March 1967, at SGV-000061831, pp.50-52.

⁵⁴⁶ NRS ED15/486/1, report, J. S. Murphy, H.M. Inspector of Schools, SED, 1 July 1966, at SGV-000000061, p.262

clear account from [the Matron] about the degree of persuasion [the Headmaster] had used to obtain this change.⁵⁴⁷

Four days after the incident the same medical record indicated that the boy's "Rt. Ear sore, had been bleeding", and the record noted that it continued to be sore for a further three days.⁵⁴⁸ The H.M. Inspector of Schools recommended that the SED issue a formal letter of concern to the school's Board of Managers. The letter from the branch Principal responsible for approved schools to the Church of Scotland's Board of Social and Moral Responsibility stated:

It is reported that there have in recent months been instances of irregular punishment by striking. The headmaster has admitted administering such punishment on one occasion and the deputy headmaster on two occasions. The occurrence of these irregularities gives rise to concern and is particularly disturbing since the most senior and experienced members of staff were involved and H.M. Inspector had found it necessary in July 1965 to write to the headmaster disapproving of earlier incidents. It might also be noted that the school records contain no mention of the incidents.

Another aspect of punishment is also the subject of report. This relates to a practice which is apparently known at the school as the "six o'clock routine" and involved boys who are deemed to have offended in rising at a very early hour, in running round the school fields several times, sometimes carrying an iron pipe or other burden, and in taking a cold shower. None of these forms of punishment fall within the various forms allowed by Rule 29 of the Approved School (Scotland) Rules 1961 and the practice generally is not thought to be in keeping with modern ideas on social rehabilitation methods.⁵⁴⁹

The letter further commented on the use of the boys for work in the evenings:

In this regard, the Department's medical adviser has indicated that a full eight hours' sleep is the minimum required to ensure the good health of adolescents and that pupils should not in any circumstances be engaged in work for any period in excess of that prescribed by legislation for young people in employment. Apart from these points, it is felt that the practices described do not satisfy the requirements of Rules 22 and 24 of the Approved Schools Rules and that they represent undue departures from the scheme of daily routine required under Rule 20.⁵⁵⁰

⁵⁴⁷ NRS ED15/486/1, report, J. S. Murphy, H.M. Inspector of Schools, SED, 1 July 1966, at SGV-000000061, p.263.

⁵⁴⁸ NRS ED15/486/1, report, J. S. Murphy, H.M. Inspector of Schools, SED, 1 July 1966, at SGV-000000061, p.263.

⁵⁴⁹ NRS ED15/486/1, letter, B. J. Bennett, Principal, SED, 5 August 1966, at SGV-000000061, p.234.

⁵⁵⁰ NRS ED15/486/1, letter, B. J. Bennett, Principal, SED, 5 August 1966, at SGV-000000061, p.235.

The Assistant Secretary of the SED's Child Care division read the reports and correspondence and agreed that the Department's "line...was exactly right".⁵⁵¹ The issue in securing "certain modifications" in the schools' regime in the first instance was for the Board of Managers, and if the headmaster complied and managed the school within the Approved School Rules and Regulations the matter would rest. The Board, it appeared, sought the resignation of the headmaster but through the conciliation efforts of the Educational Institute of Scotland (E.I.S.) the headmaster agreed to follow the statutory rules.⁵⁵² Over the next four years, "no noted upsets" in the school's management were reported, but the H.M. Inspector of Schools commented on the turnover of staff.⁵⁵³ In essence, apart from the "irregular punishments" the SED's concern with the school's regime lay in its unwillingness to subscribe to "modern methods of treatment", preferring instead "the outworn doctrine" of "nineteenth century public schools" with the belief that "healthy physical exercise" would act as the antidote to whatever imperfections teenage children may have had.⁵⁵⁴

The suitability of staff to work and teach in an approved school was further tested in 1964 when the SED considered the restoration of a teaching certificate to Loaningdale's Welfare Officer. The school, near Biggar, opened in 1963, admitted Protestant boys aged 13 and upwards with the purpose of providing "a shorter and more specialised period of training" for those with a good record of behaviour, primarily to assist their early release on licence.⁵⁵⁵ The duties of a welfare officer covered assisting the school's managers in case-work with a pupil's family and securing their suitable employment after release.⁵⁵⁶ In this case, six years earlier, the male teacher concerned had been sentenced and served three months imprisonment for "lewd, indecent and libidinous practices and behaviour towards young girls, aged

⁵⁵¹ NRS ED15/486/1, minute, I. M. Wilson, Assistant Secretary, SED, 31 August 1966. at SGV-000000061, p.227.

⁵⁵² NRS ED15/486/1, minutes, B. J. Bennett, Principal, SED, 23 September 1966, at SGV-000000061, p.211; I. M. Wilson, Assistant Secretary, SED, 27 September 1966; letter, Church of Scotland: Department of Social and Moral Welfare, 30 September 1966, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 18 July 1970; ED15/307, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 29 June 1967, at SGV.001.009.2971-2974.

⁵⁵³ NRS ED15/486/1, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 18 July 1970, at SGV-000000061, p.155.

⁵⁵⁴ See NRS ED15/486/1, letter, B. J. Bennett, Principal, SED, 5 August 1966, at SGV-000000061, pp.234-235; report, J. S. Murphy, H.M. Inspector of Schools, SED, 16 December 1966.

⁵⁵⁵ [Cmnd. 2307] SED, *Education in Scotland in 1963. A report of the Secretary of State for Scotland*, (April 1964), at LEG-000000130, p.97; see also NRS ED15/356/2, submissions, W. F. Arbuckle, Secretary, SED, 28 April & 15 May 1961, & minutes, Brooman-White, 3 & 16 May 1961, at SGV-000000061, pp.26-30, pp.65-66, and p.77.

⁵⁵⁶ For instance, see [Cmnd. 740] SED, *Education in Scotland in 1958. A report of the secretary of state for Scotland*, (May 1959), pp.75-76; NRS ED15/353, SHHD, "Report of the Organisation of After-Care in Scotland", paras 24-27, December 1962.

11 and 12 years".⁵⁵⁷ The girls had been his pupils at a school near Edinburgh.⁵⁵⁸ With the sanction of the Joint Parliamentary Under-Secretary of State (Macpherson), the teaching certificate was withdrawn.⁵⁵⁹ Sometime after discharge from prison the ex-teacher had sought the certificate's restoration, but the SED refused to accept the advice of his psychiatrist who had suggested a restriction to teach young men only.⁵⁶⁰ Its medical officers, in the knowledge that the certificate would have to be restored without restriction, had advised against such a move. In 1963 the Department agreed with the decision of Loaningdale's managers that he could be employed as its Welfare Officer, the school (and his referees) being aware of his previous history. The following year an appeal was submitted this time supported by the Chair of Psychological Medicine at Edinburgh University, the headmaster of an Edinburgh School, and the Depute Director of Education at Midlothian County Council. In its advice to the Joint Parliamentary Under-Secretary of State, Lady Tweedsmuir, the SED commented that:

Our own medical officers, having regard to...good behaviour since his discharge from prison and the absence of any evidence of mental abnormality or sexually deviant behaviour, consider it justifiable from the psychiatric point of view to restore the certificate. They think, however, that it would be preferable for...not to be employed in teaching young children, especially girls.

There is always an element of risk in restoring a certificate after withdrawal. In this case, [the SED] consider that the reports, and the calibre of those who have spoken on...behalf – they include Mr. Norman Murchison, the Headmaster of Ainslie Park School, and the Depute Director of Education for Midlothian County Council - justify our taking the risk, and recommend that the certificate should be restored. If you approve, we shall, in communicating the decision to...make clear that he should seek employment where he would be teaching older boys, as he apparently has in mind to do, and we shall ask him to let us know when he takes up a post.⁵⁶¹

The Welfare Officer joined Loaningdale's teaching staff, the Scottish ministers being informed of the appointment during an incident at the school in 1967 (see below).⁵⁶²

As at Geilsland (above) the H.M. Inspector of Schools censured the headmaster at Langlands Park in 1963 for slapping a girl (the school had been opened the previous

⁵⁵⁷ NRS ED15/346/1, submission, Sir William Murrie, Secretary, SED, 2 August 1957.

⁵⁵⁸ NRS ED15/346/1, submission, Sir William Murrie, Secretary, SED, 2 August 1957.

⁵⁵⁹ NRS ED15/346/1, minute, Macpherson, 6 August 1957.

⁵⁶⁰ NRS ED11/346/1, submission, N. W. Graham, Secretary, SED, 23 July 1964.

⁵⁶¹ NRS ED11/346/1, submission, N. W. Graham, Secretary, SED, 23 July 1964.

⁵⁶² NRS ED15/346/1, minute, B. J. Bennett, SWSWG, 24 August 1967. It is assumed that N. (Norrie) F. Buchan, one of the other Joint Parliamentary Under-Secretaries of State, was briefed as Millan was on leave. The appointment was also known to the local MP, Judith Hart, and Biggar's Provost.

year by the Church of Scotland for senior Protestant girls.).⁵⁶³ The headmaster also admitted that a member of staff had slapped another girl. The Inspector informed the headteacher that the revised Approved School Rules, 1961, prohibited the use of corporal punishment in senior girls' schools, and that any breach rendered a member of staff liable to dismissal or other disciplinary action. Sometime later the school's managers asked the headmaster to resign and appointed a headmistress instead.⁵⁶⁴ Within a few months the headmistress resigned—"had to throw in the towel" as the H.M. Inspector of Schools described it.⁵⁶⁵ Subsequent inspections did not disclose the recurrence of irregular punishments, but in Autumn 1967 the H.M. Inspector of Schools was called urgently after an outbreak of disorder. The Inspector's report recorded that there had been a "breaking out, attacks on other girls and struggles with members of staff attempting to restore order", a "position complicated" by local youths appearing at the school's windows.⁵⁶⁶ One youth was found in the kitchen having allegedly "punched and roughly handled" a girl.⁵⁶⁷ Order was restored by drafting staff from other approved schools, but the Inspector concluded that the cause of the "troubles" was "multifactorial", stating that the

Premises are badly situated, do not afford sufficient possibility of outdoor activities, and are difficult to supervise and run...Girls cannot easily leave the premises for work or recreation without they or attendant staff receive the attentions, if not molestations, of the idle youths and men who frequent the paths and walks in this end of Port Glasgow...

After a period of stabilisation, they should be going out to work in hospitals, old peoples homes, nurseries and market gardens. We may also need more active and productive activities inside the school until the girls are ready to go out. At present they are sitting on their backsides too much, and using their legs, hand and heads too little.

Recreation is also too passive. The girls do not get out of the house or grounds sufficiently. There is a fine estuary in front of them and grand hills behind them,

⁵⁶³ NRS ED15/401/1, letter, J. S. Murphy, H.M. Inspector of Schools, 11 March 1963, at SGV-000061834, pp.6-7.

⁵⁶⁴ NRS ED15/307, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 29 June 1967, at SGV.001.009.2971-2974; NRS ED15/372/1, item 1, minute of SED Child Care division, branch C staff meeting, 9 November 1965; see also NRS ED15/425/1, minute of conference of Heads of Girls' School, 3(b), 26 November 1965. Representing the SED were J. A. McPherson, H.M. Inspector of Schools, J. S. Murphy, H.M. Inspector of Schools, and Miss Hamilton.

⁵⁶⁵ NRS ED15/307, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 29 June 1967, at SGV.001.009.2971-2974.

⁵⁶⁶ NRS ED15/401/1, report, J. S. Murphy, H.M. Inspector of Schools, SED, 18 October 1967, at SGV-000061834, p.43; see also NRS ED15/490/1, letters, The Church of Scotland: Department of Social and Moral Welfare, 19 September & 4 October, & letter, B. J. Bennett, Principal, SWSG, 22 September 1967.

⁵⁶⁷ NRS ED15/401/1, report, J. S. Murphy, H.M. Inspector of Schools, SED, 18 October 1967, at SGV-000061834, p.43.

which could provide the right ground for walking, observing, collecting and map reading. To get them into this some transport is probably necessary. Inside recreation also – mainly television and knitting – has been too passive, and lacking on occasions for steam-letting. More use of the hall should be made for active badminton, table tennis etc. There should also be record sessions when they can enjoy without repression the cacophonies of current popular records.

Casework Group counselling was started with the girls in June, but did not get very far because of holidays, teething troubles, etc. ...Psychiatric help is at present only available in emergency. The Psychologist has not been able to deal continuously with any number of individual cases.

Girls Insufficient attention is still paid to appearance, dress and self-respect. Greater efforts should be made to achieve a high standard of skin, hair and general personal appearance.

Staff is probably the biggest single factor in this equation. With a good, experienced staff well led, the previous adverse factors might have been surmounted.⁵⁶⁸

There were two inter-related issues affecting the care and protection offered by the school. First, as was openly acknowledged by the SED, the site was "far from ideal" and was poorly located to prevent molestation, if not attack, from local youths and other men.⁵⁶⁹ Second, the school's management had not been able to organise the active forms of recreation thought necessary for girls of that age, or provide therapeutic counselling (and psychiatric assistance) to support their personal development.

A subsequent inspection in 1969 looked closely at the staff employed, the dormitory accommodation and the provision of education.⁵⁷⁰ It noted the employment of a residential social work officer, a remedial education teacher (who was also the depute), the appointment of a full-time remedial education teacher, and that one of the residential house supervisors also held a child care certificate. The report welcomed the extension of the school's education programme which, it stated, would provide "for a number of skills and activities", and would include the development of "remedial teaching" for "the semi-literate socially deprived girl".⁵⁷¹ Over the next four years further inspections and discussion with the school's

⁵⁶⁸ NRS ED15/401/1, report, H.M. Inspector of Schools, SED, c. October 1967, at SGV-000061834, p.43.

⁵⁶⁹ NRS ED15/372/1, note, Branch C meeting on approved schools, SED, item 1(ii), 1 June 1966, at SGV-000000065, pp.227-230. Attendees were I. M. Wilson, Assistant Secretary, B. J. Bennett, Principal, J. A. McPherson, H.M. Inspector of Schools, J. S. Murphy, H. M. Inspector of Schools, I. G. F. Gray, & C. Greig.

⁵⁷⁰ NRS ED15/401/1, report, E. C. Hunter, Social Work Adviser, SWSG, 4 February 1970, at SGV-000061834, pp.67-69.

⁵⁷¹ NRS ED15/401/1, report, E. C. Hunter, Social Work Adviser, SWSG, 4 February 1970, at SGV-000061834, p.69.

managers led to SED approval for increased capital expenditure to improve the dormitories, classrooms and other facilities.⁵⁷²

The retained NRS records on Balnacraig, Springboig St John's, Kibble, Kenmure St Marys, Geilsland, Loaningdale, and Langlands Park provide an account of official and ministerial consideration of conditions within Scottish approved schools for the period after 1961. As in the immediate post-war period the central focus of attention lay in the breach of the revised Approved School Rules and Regulations issued in 1961. Allied to that lay a fear that due to their management Scottish schools could succumb to a Carlton type disturbance—with concomitant political repercussions. The latter was certainly a consideration that influenced reaction to events at Balnacraig, Springboig St John's, and to a certain extent Langlands Park. Whether it was a breakdown of inter-staff relations, a "permissive" regime tolerated by a headteacher, a general lack of control, violence between pupils, or attacks by intruders indicated that the care and protection of pupils had broken down. Equally, the SED maintained its stance against the use of "irregular punishments" at Springboig St John's, Kenmure St Mary's, Langlands Park and Geilsland, it is evident that a regime based on a "rod of iron", was unacceptable.⁵⁷³

The use of corporal punishment within approved schools (except for older girls) remained permitted within the revised Rules, 1961, but the Approved Schools Association (Scotland) had "undertaken" that its usage "would probably decline".⁵⁷⁴ As far as the SED was concerned the Rule 31 had been "formulated" on that basis.⁵⁷⁵ In 1967 a Departmental review of recorded corporal punishments indicated that its use had increased, though, in part, this was attributed to a reduction in irregular punishments.⁵⁷⁶ It was thought that headteachers had no wish to attract censure in

⁵⁷² NRS ED15/401/1, reports, E. C. Hunter, Social Work Adviser, SWSG, 19 June 1970, at SGV-000061834, pp.72-73; R. B. Tough, Social Work Adviser, c.26 February 1971; note of meeting between Langlands' managers and SWSG, 25 September 1972 (SWSG representatives were W. Bruce, Higher Executive Officer and C. A. Black, Executive Officer), at SGV-000061837, pp.76-80; note of meeting between Langlands' managers and SWSG, 30 Aug 1973 (SWSG representatives were R. J. Edie, Principal, T. B. Cairney, Higher Executive Officer, & C. A. Black, Executive Officer), at SGV-000061837, pp.84-88.

⁵⁷³ The details on Thornly Park are missing.

⁵⁷⁴ NRS ED15/409, note of Joint Consultative Council meeting of SED and Approved Schools, 17 June 1964. The SED attendees at the meeting are not stated, but the discussion on punishment was led by the Under-Secretary, R. P. Fraser, at SGV-000061831, p.2.

⁵⁷⁵ NRS ED15/409, note of Joint Consultative Council meeting of SED and Approved Schools, 17 June 1964, , at SGV-000061831, p.2.

⁵⁷⁶ NRS ED15/409, minutes, J. S. Murphy, H. M. Inspector of Schools, SED, SWSG Approved School Branch meeting, 29 March 1967, at SGV-000061831, pp.50-52; B. J. Bennett, Principal, SWSG, 4 Apr, 25 Apr, J. S. Murphy, H. M. Inspector of Schools, SED, 18 August 1967 (with appendices), at SGV-000061831, pp.79-91, P. A. Cox, (Assistant Secretary, SWSG, 22 August, J. A. Ward, Medical Officer, SHHD, 25 August, & B. J. Bennett, Principal, SWSG, 31 August 1967.

the wake of events at Springboig St John's, Thornly Park, and Kenmure St Mary's.⁵⁷⁷ At the same time the review noted its "excessive" usage at Geilsland, but the protestations of the H.M. Inspector of Schools appeared to have little impact on the headmaster's policy.⁵⁷⁸ Elsewhere in 1965 a high incidence was recorded at Dale, Thornly Park, Oakbank, Dr Guthries Boys, and St. Andrews, with little evidence of a significant reduction the following year.⁵⁷⁹

The issue for the now Social Work Services Group (SWSG) in the late 1960s was not that corporal punishment continued to be in usage, but in the culture, or rather the regime of "care" that it entailed. As the H.M. Inspector of Schools minuted:

Over the years our superficial attempts at training have infiltrated some more modern concepts and, more important, our help in the selection of Heads has reduced the number of them who would reply mainly on corporal punishment as a means of reform. There is still a nucleus of Heads, however, who are anxious not to be considered "soft".

[...] I am in no doubt however, that corporal punishment is still quite a savage business and that boys scream when a stout Lochgelly is applied on the buttocks. As [a Headmaster appointed in 1950] said once in public, when another Head said that any father would occasionally give his boy a pat on the backside – "Sir, I do not give them pats on the backside, I given them a flogging". The records show that many floggings are administered in our schools.⁵⁸⁰

The SWSG accepted the advice of the H.M. Inspector of Schools that the agreement reached between the Department and approved school managers in 1961 had been breached and that the position they outlined was 'accurate'.⁵⁸¹ A significant number of schools still adhered strongly to its use, including Mossbank, where the H.M. Inspector of Schools had been informed that the main purpose of the school "was punishment and training".⁵⁸²

⁵⁷⁷ NRS ED15/409, minute, J. S. Murphy, H. M. Inspector of Schools, SED, 18 August (with appendices), at SGV-000061831, pp.79-91.

⁵⁷⁸ NRS ED15/554, H.M. Inspector of Schools minute, 19 November 1968. [closed file]

⁵⁷⁹ NRS ED15/409, minute, J. S. Murphy, H. M. Inspector of Schools, SED, 18 August (with appendices), at SGV-000061831, pp.79-91.

⁵⁸⁰ NRS ED15/409, minute, J. A. McPherson, H.M. Inspector of Schools, SED, March 1967, at SGV-000061831, p.48.

⁵⁸¹ NRS ED15/409, minutes, P. A. Cox, Assistant Secretary, SWSG, 22 August 1967, at SGV-000061831, p.121; & B. J. Bennett, Principal, SWSG, 31 August 1967, at SGV-000061831, p.126.

⁵⁸² NRS ED15/409, minutes P. A. Cox, Assistant Secretary, SWSG, 22 August 1967, at SGV-000061831, p.121; & J. S. Murphy, H.M. Inspector of Schools, SED, 29 March 1967, emphasis in the original, at SGV-000061831, p.51.

Before the SWSG prepared a submission to Bruce Millan it sought the advice of the Scottish Home and Health Department's liaison medical officer. In a two-page review of corporal punishment the official believed that corporal punishment in an approved school "could have several undesirable effects", both in terms of physical harm to the child and their "developing" personality.⁵⁸³ In consequence the medical officer believed that those headteachers who supported it were little more than "a bunch of sadists".⁵⁸⁴

The view of the H.M. Inspector of Schools was presented to Millan in summary form with a recommendation of proposed action:

The association and the schools are fully aware of our views on corporal punishment, and any declaration now of an intention to eliminate it at an early date would be regarded by the approved schools not only as a failure to recognise and support them in their undoubted difficulties but as a handicap in the sense that it would create uncertainties before positive alternatives and a change of attitude could be achieved. It might have the effect, too, of inducing irregular and concealed punishment. On the assumption that attitudes are changing in the right direction we feel that better results can be achieved by fostering this movement rather than by direction or declaration.⁵⁸⁵

Millan agreed that a circular should be issued to restate the official view that "the level of corporal punishment can and should be reduced".⁵⁸⁶ He also asked to be informed of the Scottish rate compared with England. The SWSG responded that whilst the number of punishments in Scotland had fallen, it remained at three times the level in England.⁵⁸⁷ The Minister "initialled" the minute "without comment".⁵⁸⁸ In essence, whilst the official and ministerial view considered corporal punishment as antithetical to a child's development, within the approved school movement it was believed that an attempt to abolish it by regulation might cause an upsurge in "irregular" and "unrecorded" punishment.⁵⁸⁹ In that sense the "back-door to all kinds of abuses" might be opened.⁵⁹⁰ Millan accepted that an increased number of

⁵⁸³ NRS ED15/409, minute, J. A. Ward, Medical Officer, SHHD, 25 August 1967, at SGV-000061831, p.124-125.

⁵⁸⁴ NRS ED15/409, minute, J. A. Ward, Medical Officer, SHHD, 25 August 1967, at SGV-000061831, p.124-125.

⁵⁸⁵ NRS ED15/409, submission, R. D. M. Bell, Under-Secretary, SWSG, 26 September 1967, at SGV-000061831, p.149.

⁵⁸⁶ NRS ED15/409, minute, Millan, 17 October 1967, at SGV-000061831, p.146.

⁵⁸⁷ NRS ED15/409, submission, R. D. M. Bell, Under-Secretary, SWSG, 23 October 1967, at SGV-000061831, p.157.

⁵⁸⁸ NRS ED15/409, minute, Millan, 25 October 1967, at SGV-000061831, p.158.

⁵⁸⁹ NRS ED15/409, submission, R. D. M. Bell, Under-Secretary, SWSG, 26 September 1967, at SGV-000061831, pp.146-150.

⁵⁹⁰ NRS ED15/409, minute, J. S. Murphy, H. M. Inspector of Schools, SED, 18 August (with appendices), at SGV-000061831, pp.79-91.

inspectors, within the soon to be formed Central Advisory Service, coupled with greater use of educational psychologists and psychiatrists, as well as further staff training would finally alter the culture of "control", which lay at the centre of the system.

The concern that the SED held before 1961 on the physical state of accommodation in approved schools was partly offset by the opening of Langlands Park, Loaningdale, Geilsland, and Shandon. In addition, a number of other schools, such as St Joseph's, received grants and loans to improve accommodation.⁵⁹¹ Although certain deficiencies were soon noted at Langlands Park and improvement grants were discussed, the retained records indicate that SED recorded plans to improve the accommodation at Geilsland.⁵⁹²

The position at St Joseph's, Tranent, was different. In 1961, after a series of meetings with the SED on the state of the premises and its suitability as an approved school, "exploratory discussion" began on the provision of cottages, a new gymnasium and alterations to the main building.⁵⁹³ The on-going issue for the SED concerned an increase in the number of committals to approved schools (see Springboig above). In the light of the increase the SED agreed that the maximum for St Joseph's, Tranent would "nominally" remain at 120, though it "would observe a ceiling of 110 except in emergencies".⁵⁹⁴

Fourteen months later the H.M. Inspector of Schools thought that with the prospective opening of a new Roman Catholic school (Shandon) he was "hopeful of a much reduced number".⁵⁹⁵ In September 1966 the H.M. Inspector of Schools reviewed the plan of dormitory accommodation and commented:

The records available leave us in no doubt that the Department has at no time promised a reduction of the registered number to lower than 120, though we have, variously, in 1956 and 1961 respectively, offered to try to limit to 115 and 110. What I cannot understand is why this school's maximum figure, even using

⁵⁹¹ These included St John Bosco's, Aberdour, where "building operations" were noted as in place, 1969, see, [Cmnd. 4475] SED, *Social Work in Scotland in 1969*, (December 1970) at SGV-000064389, p.23.

⁵⁹² NRS ED15/401/1, Report on Langlands Park, R. B. Tough, Social Work Adviser, SWSG, 16 March 1971 at SGV-000061834, p.74; NRS ED11/486/1, Report on Geilsland, J. S. Murphy, H.M. Inspector of Schools, SED, 19 August 1968.

⁵⁹³ NRS ED15/330, minute, SED's meeting with Representatives of the Managers, 10 November 1961, at SGV.001.009.3543-3545. The SED representatives were, J. Kidd, Assistant Secretary, B. J. Bennett, principal, W. S. Kerr, Principal, J. A. McPherson, H. M. Inspector of Schools, and Mr. McLean.

⁵⁹⁴ NRS ED15/330, minute, SED's meeting with Representatives of the Managers, 10 November 1961, at SGV.001.009.3543. SED attendees were as above.

⁵⁹⁵ NRS ED15/330, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 18 January 1963, at SGV.001.009.3547.

our minimal criterion of 45 sq. ft., has never matched up to the sleeping space available.⁵⁹⁶

He then commented on each of the 12 bedrooms in the main block where he accepted that half were acceptable in terms of space for each bed, but of the others stated

six rooms of 209 sq. ft.; on our minimal figures these should each hold four boys; in fact, without double bunks and partly because of the position of the door and of the furniture, five beds are provided reasonably comfortably but with only about five feet between the centres of some of the beds; this is functionally adequate, though medical authorities would no doubt object. The Headmaster is reasonably happy about this arrangement.⁵⁹⁷

The new cottages added a further 40 beds which gave the school accommodation for 105 boys. The H.M. Inspector of Schools concluded:

To sum up, then, by our minimal standards the agreed plans have provided sleeping accommodation for 99 boys. By breaking our minimal standards the Headmaster has managed to provide for 6 extra places (i.e., by putting five into each of six rooms instead of four). By squeezing in three beds into each of the 120 sq. ft. rooms another two places could be got with considerable difficulty.

Our insistence, therefore, on a figure of 120 is very unrealistic unless we are prepared to have double bunks in 13 of the bed spaces. We are at present exceeding, by six places, our very minimal standards of 45 sq. ft. per boy which are lower than any standards used elsewhere and lower than those allowed in any new building. Can we possibly contemplate further dilution of these sub-standards?⁵⁹⁸

The central issue that the SED faced concerned the increase in the number of committals to approved schools. As Millan was informed, the number of committals to Roman Catholic boys' schools had increased from 189 in 1957 to 329 in 1966.⁵⁹⁹ The number accommodated in March 1957 had been 360, but by November 1966 it was 460, with a further 10 boys accommodated by "special arrangement" in Protestant schools. In addition to that "arrangement" the SED stated that:

It has been necessary also to increase temporarily the residential capacity of some of the existing schools beyond the limits strictly desirable in relation to the

⁵⁹⁶ NRS ED15/330, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 28 September 1966, at SGV.001.009.3560.

⁵⁹⁷ NRS ED15/330, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 28 September 1966, at SGV.001.009.3560.

⁵⁹⁸ NRS ED15/330, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 28 September 1966, at SGV.001.009.3560-3561.

⁵⁹⁹ NRS ED15/425/1, submission, R. P. Fraser, Under-Secretary, SED, 6 December 1966, at SGV-000000062, p.200.

facilities available; and the intended reduction in size of two large schools each catering for over 100 pupils has had to be deferred – we have agreed in principle with the Approved Schools Association (representing both managers and headmaster) that the largest number of pupils which can properly be catered for in a boys' school is about 80-100.⁶⁰⁰

The Department recommended that a new approved school for 80 Roman Catholic boys should be provided, which Millan agreed "in principle", subject to discussion on its management.⁶⁰¹

Millan's decision confirmed the Department's attitude towards St Joseph's and it was agreed that it should seek the school's support to reduce the certified accommodation from 120 to only 114 on the basis that was "absolutely essential" to maintain the dormitory accommodation at an "inflated" level.⁶⁰² The school agreed, but stated

that their acceptance of this high figure is solely due to their desire to co-operate with the Department in the continuing emergency. They still maintain that 106 is the maximum number of boys for whom accommodation in the school is reasonably practicable or desirable.⁶⁰³

An eventual reduction in accommodation to 100 was contemplated in 1970 on the assumption that the new school, St Philip's, Airdrie, would be opened later that year and that the redevelopment of St Bosco's also would increase the accommodation available.⁶⁰⁴

At St Joseph's it is evident that the SED was prepared to sanction dormitory accommodation in excess of the minimum criterion of space regarded as standard. As the H.M. Inspector of Schools had noted the actual accommodation at the school was "lower" than at any other approved school and below that permitted in new

⁶⁰⁰ NRS ED15/425/1, submission, R. P. Fraser, Under-Secretary, SED, 6 December 1966, SGV-000000062, pp.200-201.

⁶⁰¹ NRS ED15/425/1, minute, Millan, 7 December 1966, SGV-000000062, p.185. The management issue concerned whether the school should be governed by a local authority or voluntary body, the latter preferred by the SED ahead of the implementation of children's panels envisioned by the proposed Social Work legislation. The Minister agreed the proposal, see SED submission, M. E. Graham, SED, (Private Secretary to N. G. Graham, Secretary, SED), 16 December, at SGV-000000062, p.192; and minute, Millan, 20 December 1966.

⁶⁰² NRS ED15/330, minute, B. J. Bennett, Principal, SED, 12 January 1967, SGV.001.009.3580-3581.

⁶⁰³ NRS ED15/330, letter, Headmaster, St Joseph's School, 22 February 1967, at SGV.001.009.3600.

⁶⁰⁴ NRS ED15/330, minute of meeting, 8 January 1970, at SGV.001.009.3601-3603. Due to a shortage of teachers the number on the roll was 82, but the school was to be informed that the waiting list for places meant further admissions would be sent. The attendees at the meeting were P. A. Cox, Assistant Secretary, B. J. Bennett, Principal, T. B. Cairney, Higher Executive Officer, J. G. Gardner, Social Work Adviser, SWSG, & J. A. McPherson, H.M. Inspector of schools, SED.

accommodation—the revised accommodation standard eventually being sanctioned in 1971.⁶⁰⁵

The Approved Schools (Scotland) Regulations, 1961, amended the education provisions within the 1933 regulations by stating that such should be given “as to secure the efficient full-time education suitable to the age, ability and aptitude of the pupils of compulsory school age”.⁶⁰⁶ It effectively incorporated the SED circular issued in 1955 which called for the introduction of a wider variety of educational courses for older girls and for boys subjects of greater educational and vocational value, though the balance between education courses and vocational training was not stated.⁶⁰⁷

In January 1966 at Springboig St John’s, some four years after the serious disturbance (see above), the SED recorded a generally positive atmosphere where “[t]he boys’ morale seemed fairly good.”⁶⁰⁸ At the same time on the provision of education it was noted:

All education offered by the school was of vocational training. Instruction was given in painting, gardening, bootmaking, building maintenance, joinery and tailoring. A couple of boys helped in the kitchen. I was shown work turned out by some of the boys and the standards reached by a few was very high, considering that most of them had had no prior training. It was noticeable, however, that for the most part the boys were proceeding about their jobs with an apparent lack of interest or enthusiasm. This may have been attributable to the quality of instruction or to the boys feeling that they were only filling in time till their release. Some of the equipment being used by the boys was clearly very good and expensive. It seems a pity, therefore, that it should have to be crammed into such a small workshop area. This was particularly true in the maintenance shop.⁶⁰⁹

Vocational instruction thus predominated, which itself raised issues, as one H.M. Inspector of Schools commented generally about approved school provision:

⁶⁰⁵ [Cmnd. 5136] SED, *Social Work in Scotland in 1971*, (November 1972), p.19; see also NRS ED15/330, minute, J. A. McPherson, H.M. Inspector of Schools, 28 September 1966, SGV.001.009.3560-3561.

⁶⁰⁶ The Approved Schools (Scotland) Regulations, 1961, Reg. 21(1).

⁶⁰⁷ See NRS ED15/137, SED, *Approved Schools; Reports of Advisory Councils*, Circular 317, 13 October 1955, at SGV-000067162, pp.205-215; and discussion above in Section 3c.

⁶⁰⁸ NRS ED15/396/1, report, I. G. F. Gray, SED, 27 January 1966, at SGV-000000064, p.79. The official was accompanied by J. S. Murphy, H. M. Inspector of Schools, SED, see minute, 3 February 1966. It is not clear whether the official was a SED administrative officer or an H.M. Inspector of School new to the position.

⁶⁰⁹ NRS ED15/396/1, report, I. G. F. Gray, SED, 27 January 1966, at SGV-000000064, p.78. For a critical view of the potential to improve “vocational” training, especially the “training of apprentices”, see NRS ED15/330, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 19 January 1967, SGV.001.009.3587.

Before I came into this business [in 1950] there seemed to be little attempt to recruit "Chapter VI" teachers, even in Junior schools. I encouraged the appointment of teachers where their main purpose was 'classroom teaching' of woodwork. Such people, however, do not like to be "jobbers" and their hours are 30 per week. Heads of Inter. and Sen. Schools have felt they would get better value for less money by appointing instructors who would work longer hours and do maintenance work. How far this offsets the fact they also train fewer boys than do c/r teachers – unless they act as such – is another question that it would be very difficult to answer.⁶¹⁰

An H.M. Inspector of School's report on Springboig St John's in 1967 indicated that amongst its staff the school employed a single teacher, the deputy headmaster.⁶¹¹ The report added that the number of instructors, pupil roll and workshop size meant that the "instructional facilities" were "only just adequate for 80 boys", the sanctioned accommodation.⁶¹² The Inspector was particularly condemnatory about the "Cobblers Department" stating that it had "ceased to meet the needs of a modern School" and "should be closed as soon as possible".⁶¹³ His report the previous year noted:

this shop seemed much too inactive and uninteresting for the five boys, who were standing at benches paring leather on shoe repairs. The finished work was fairly rough and there was a general impression of lack of enthusiasm.⁶¹⁴

The report in 1968 commented again on the quality of instructional provision, stating that:

There is evidence that the two Gardening Instructors do not have a good enough overall policy for their department, and that the Headmaster, to whom they are directly responsible, does not control this sufficiently.⁶¹⁵

⁶¹⁰ NRS ED15/365, minute, J. A. McPherson, H.M. Inspector of Schools, SED, 21 December 1967.

⁶¹¹ NRS ED15/396/1, report, J. S. Murphy, H.M. Inspector of Schools, SED, 5 October 1967, at SGV-000000064, pp.61-63.

⁶¹² NRS ED15/396/1, reports, J. S. Murphy, H.M. Inspector of Schools, SED, 5 October 1967, at SGV-000000064, pp.61-63; c.13 September 1966, & 5 April 1968. Over the period, 1966-68, the number of instructors appears to have varied, but eight seems to have been the compliment.

⁶¹³ NRS ED15/396/1, reports, J. S. Murphy, H.M. Inspector of Schools, SED, 5 October 1967, at SGV-000000064, pp.61-63; c.13 September 1966, at SGV-000000064, pp.65-66; 5 April 1968. Over the period, 1966-68, the number of instructors appears to have varied, but eight seems to have been the compliment.

⁶¹⁴ NRS ED15/396/1, report, J. S. Murphy, H.M. Inspector of Schools, SED, c.13 September 1966, at SGV-000000064, p.65.

⁶¹⁵ NRS ED15/396/1, report, J. S. Murphy, H.M. Inspector of Schools, SED, 5 April 1968, at SGV-000000064, p.15.

At Springboig St John's education, as opposed to vocational training, was introduced after the raising of the school-leaving age, but vocational training remained a major element in the school's programme. In 1978, for a roll of 80 boys, it was reported that the school employed four teachers and eight instructors.⁶¹⁶

Tynepark was another school that concentrated on vocational training. In 1968 the H.M. Inspector of Schools reported on the curriculum and activities:

There is no lack of variety. Mornings consist in the main of laundry, kitchen, sewing, housework and gardening. At other times there is a wide selection; a good deal of inexpensive maintenance and deportation has been done by the girls. Small cookery classes run by Miss Alexander require the girls to prepare for four a three-course meal of soup, meat or fish with two vegetables, sweet or biscuits and cheese with coffee, for no more than 12/6d; there are baking classes in addition. Much of the girls' clothing is made by themselves, each choosing her own material and patterns in an Edinburgh shop – extravagant but otherwise good practice!

The girls have worked hard at handcrafts to sell products and to buy various items such as a canoe kit, tape-recorder and record player.

[...] One omission in the programme is the lack of even a day-release attendance in a classroom for general education. While it is true that, unlike boys, nearly all girls of this kind have enough literacy to cope with life, there is a body of knowledge which they should have about social and domestic affairs and they are not getting this at Tynepark. I have raised this matter before but the usual answer is that the only teacher on the staff – Mrs. Brownlee – could not hold the attention of these girls in a classroom.⁶¹⁷

The school, which at that time had 15 girls on its roll, employed an instructor for the laundry and needlework, another for cookery, as well as a gardener and a part-time visiting art teacher.⁶¹⁸ The SWSG's Assistant Secretary responsible for approved schools accepted the report and agreed with the Division's Principal that the issue of its "educational deficiencies" should be followed up.⁶¹⁹

⁶¹⁶ NRS ED15/396/1, report, J. McAlpine, H.M. Inspector of Schools, SED, 26 January 1978, at SGV-000000064.

⁶¹⁷ NRS ED15/338/1, report, J. A. McPherson, H.M. Inspector of Schools, SED, 12 October 1968, at SGV-000000058, p.230.

⁶¹⁸ The school's maximum roll was 20.

⁶¹⁹ NRS ED15/338/1, minutes, B. J. Bennett, Principal, 23 October, & P. A. Cox, Assistant Secretary, SED, 24 October 1968, at SGV-000000058, p.231. The practice had been to channel any "overspill" of younger girls to Langlands Park and improve the educational facilities there, see minute, J. S. Murphy, H.M. Inspector of Schools, SED, 5 November 1968, at SGV-000000058, p.231.

Two years later it was reported that a new classroom unit had been constructed, though the H.M. Inspector of Schools raised some doubt that the home economics syllabus taught by the two unqualified instructresses would be a "success".⁶²⁰ As at Springboig, the impetus for the introduction of a defined syllabus was the raising of the school-leaving age and by 1973 the school had recruited a number of qualified teachers. The SWSG's Social Work Adviser reported that the headmaster intended "to launch a new programme...in which the mornings will be devoted basically to home-craft activities and the afternoons to teaching in the classrooms."⁶²¹

The raising of the school-leaving age appears also to have impacted on Geilsland. Since its opening in 1964, like Springboig St John's and Tynepark, the emphasis had been placed on vocational training, in particular in gardening, woodwork and engineering.⁶²² In 1968 it had been contemplated that two classrooms would eventually replace a dormitory and a recreation hall, but five years later the H.M. Inspector of Schools would comment:

I visited this school...and was disturbed to find that, once again, educational provision in Geilsland has been given the lowest priority. When the school opened about 8 years ago accommodation of all kinds was scarce and education, like all other activities at that time, existed in very poor conditions. Since then it has been possible to build residential accommodation, office accommodation, workshops, greenhouses and a sports complex. Throughout this period education has been provided in make-shift premises sometimes in rooms little better than large cupboards.

An educational unit was planned and built about 3 years ago but before completion it was converted into dormitories and residential rooms. ...Education has been pushed out into a smaller room in an old cottage because the former classroom is needed as a linen store. ...In these circumstances I have doubt about the accuracy of continuing to describe Geilsland as providing education.⁶²³

At Geilsland the pressure of committals and the requirement for dormitory accommodation had resulted in the planned classrooms not being released.

Whilst the H.M. Inspector of Schools doubted that the Geilsland provided education, a report on Balrossie, maintained by Glasgow City Council, indicated that although

⁶²⁰ NRS ED15/338/1, report, E. C. Hunter, Social Work Adviser, SWSG, 25 June & report, E. R. Mowat, H.M. Inspector of Schools, SED, 2 December 1970, at SGV-000000058, pp.207-208.

⁶²¹ NRS ED15/338/1, report, J. V. B. Neilson, Social Work Adviser, SWSG, 22 August 1973, at SGV-000000058, p.151.

⁶²² For instance, see NRS ED15/486/1, report, J. S. Murphy, H.M. Inspector of Schools, SED, 29 August 1967, at SGV-000000061.

⁶²³ NRS ED15/486/1, report, J. McAlpine, H.M. Inspector of Schools, 5 July 1973, at SGV-000000061, p. 141.

the classroom accommodation "could be considered adequate for seventy boys", it lacked "a clear educational philosophy" about its "educational aims."⁶²⁴ The H.M. Inspector of Schools further commented that:

A preoccupation with backwardness and the problems of slow learners has led teachers to adopt over simplified methods of instruction which follow linear progressions and which consist, for the most part, of constant repetition work in core subjects of the curriculum, mainly rudimentary aspects of reading and number work. Such approaches offer no interest or motivation to boys who have already failed with similar texts and near similar techniques, This is reflected in the ability of children to make progress within the narrow framework provided, because they lack sufficient variety of experience and opportunity to acquire facility in using new skills and subskills before being presented with the subsequent steps in a progression. In Balrossie the progression followed is that set out in the text book in use rather than one designed by the teacher to meet the needs of the child, at the same time remaining true to the nature of the subject. Most boys were under-achieving because of the restrictions of this narrow curriculum.⁶²⁵

The SWSG's Assistant Secretary responsible for List D schools accepted the report and wrote to Glasgow's Social Work Department recommending the introduction of "a more broadly based-educational experience" through the provision "of reading material of a less academic and more interesting kind", the development of arts and crafts teaching, and greater attention to forming class groups by age range rather than allocation by IQ assessment and reading ability.⁶²⁶

The period after the introduction of the Approved School (Scotland) Regulations in 1961 had not witnessed a concerted effort by the SED to implement the regulation concerning the provision of "efficient full-time education". Junior schools, such as Snowden and Balnacraig, continued to rely on local schools to provide education on a day release basis and, where appropriate, at special schools.⁶²⁷ However, other schools remained very much committed to vocational training. Indeed at Springboig the training included bootmaking, which even the H.M. Inspector of Schools argued no longer met vocational needs and should cease. The raising of the school-leaving

⁶²⁴ NRS ED15/399/1, report, M. C. McKellar, H.M. Inspector of Schools, SED, 10 January 1975, at SGV-000000063, p.136; but see also Social Work Advisers' report of visit, 7 & 8 October 1974. The latter report was probably completed by R. Percival, Senior Social Work Adviser and S. F. Hill, Social Work Adviser.

⁶²⁵ NRS ED15/399/1, report, M. C. McKellar, H.M. Inspector of Schools, SED, 10 January 1975, at SGV-000000063, p.136; but see also Social Work Advisers' report of visit, 7 & 8 October 1974. The latter report was probably completed by R. Percival, Senior Social Work Adviser and S. F. Hill, Social Work Adviser.

⁶²⁶ NRS ED15/399/1, letter, A. F. Reid, Assistant Secretary, SWSG, 21 April 1975, at SGV-000000063, pp.128-131.

⁶²⁷ NRS ED15/484, minutes, Branch meeting covering approved schools, SED, 16 April & 8 June 1964, at SGV-000061811.

age after 1972 caused the SED to offer training courses to approved school teaching staff, including an introduction to modern methods of teaching in primary schools but, as can be seen at Balrossie, the actual method of teaching was considered short of the educational needs.⁶²⁸

The Approved Schools (Scotland) Regulations, 1961, may have fallen short of the recommendations of officials, but it is evident they were used as the benchmark to assess deficiencies in approved school management, with ministerial support after the events at Balnacraig and Springboig St John's. Deficiencies that were found included permissive regimes that tolerated violence by staff and between pupils, punishments that fell outside the rules, poor security that permitted intruders to molest pupils, and the lack of recreational facilities. Degradation of pupils by insisting on certain routines before punishment, such as wearing special pants or pyjamas was certainly considered as abuse. Equally any activity that resembled the "track" system (as before), the use of cold showers, or work that was in excess of regulations for young people in employment was considered out of keeping with "modern ideas" of "rehabilitation". Sexual misconduct by staff, as before, led to resignation, if not dismissal, although a teacher who had committed offences against girls was not necessarily debarred from teaching boys. Beyond these issues the SED, and later the SWSG, felt compelled to breach their own standard on dormitory accommodation. The pressure of committals during the mid-1960s meant accepting overcrowding in at least one school. Whether Millan realised that the "temporary" arrangement meant three years is a moot point. It would also appear that the SED did not press schools on the provision of education as opposed to vocational training, certainly not until the late 1960s when the Government became committed to raising the school-leaving age. The regulations did not specify the balance between educational courses and vocational training, but at Springboig St John's, Geilsland and Tynepark the absence of educational courses was noted before the school-leaving age was raised. Balrossie's "educational aims" were doubted even in 1974.

Children's Homes and Children under Supervision

The Administration of Children's Homes (Scotland) Regulations, 1959, and its accompanying Notes, set out a number of conditions to ensure a certain standard of care was met within children's homes. They included a requirement to inform the Secretary of State on the accommodation and staffing on request. Each home was to appoint a medical officer to provide the general supervision of the health of the children, supervise the home's hygienic conditions, attend the home regularly to ensure a close acquaintance with the health of the children and examine each child

⁶²⁸ [Cmnd. 5337] SED, *Social Work in Scotland in 1972*, (July 1973), p.14, at LEG-000000133.

on admission, at intervals of not less than 12 months, and before discharge. The regulations also covered sleeping arrangements that included the minimum space between beds, the provision of sufficient ventilation and natural and artificial lighting in bedrooms and easy access to suitable and sufficient water closets and washing facilities. The general discipline within the home was to be maintained by the personal influence of the person in charge of the home, who was required to keep a log book of any punishments given. Permitted punishments included the temporary loss of recreation and privileges and the use of corporal punishment. The latter was to be determined by the rules laid down by the administering authority (either the voluntary managers or the local authority). Abnormal frequency of punishments were required to be reported to the administering authority who would arrange for an investigation into the child's mental condition. Rules existed to ensure the Secretary of State was notified if a child died, absconded or suffered from an injury or other disability while in the home. The person in charge of the home was required to maintain records of each child, including personal and medical history, and the Secretary of State was empowered to limit the number of children in any one voluntary home. A record of the food provided was to be maintained in order to ensure that an inspection could "judge whether the dietary" was "satisfactory". Examples of the approach used by the SHD's Child Care Inspectors to inspect children's homes can be found at the Martha Frew Home, Dunfermline, (managed by the Burgh) in 1961, and Ashlea Working Boys Hostel, Glasgow, in 1963.⁶²⁹ Their reports covered the number of children, the staffing (including their qualifications), the state of the premises, fire precautions, medical arrangements, clothing, education, recreation, dietary provision, holidays, and record-keeping. Such, reflecting the Administration of Children's Homes (Scotland) Regulations, 1959, and its attached Schedule, provided a template on which to assess whether a home was managed within the regulations and where there were any concerns on the standard of care. The Dunfermline Home was reported as being run "efficiently" and the Ashlea Hostel as "running well".

The SHD's Child Care Inspectors undertook an inspection of Glasgow's child care arrangements at the end of 1959. The report was essentially an inspection of the organisation, staffing, and procedures within the Children's Department, but the inspectors also visited its children's homes and hostels. The NRS retained file does not include any detailed review that the inspectors undertook, but, from the summary information, six of the sixteen homes and hostels received negative reports. These ranged from structural issues of layout and poor decoration to staff who were

⁶²⁹ NRS ED11/816/1, report, M. J. Morrison, Child Care Inspector, SHD, 10 May 1961, at SGV.001.009.6133-6136; ED11/620/1, report, J. M. Anderson, Child Care Inspector, SHD, 10 May 1963, at SGV-000085400, pp.6-9.

inadequate in number, training, and experience.⁶³⁰ The inspectors also noted that Glasgow had placed 143 children in voluntary homes (in May 1958), of which over 60 were in Smyllum.⁶³¹ The SHD child care division agreed that the Children's Department should be informed of the inspectors' concern that the "day-room accommodation" in a number of the homes was "on the small side", but noted that "under pressure" it had "passed plans" that "did not provide adequate day room accommodation".⁶³² Additionally the Children's Department was informed that "more emphasis should be placed on staff training".⁶³³ The report did not reveal evidence of physical abuse of children but highlighted that inappropriate forms of care could arise from poorly trained and inexperienced staff and the physical state of accommodation.⁶³⁴

Similar issues emerged after an inspection of West Lothian's Wallhouse Children's Home in 1961. The inspection was authorised by Maclay, the Secretary of State, after allegations were made by several individuals previously associated with the Home.⁶³⁵ The inspection led by the SHD's Chief Inspector, Child Care and Probation covered over 100 pages and concluded that:

The conduct of the Home is unsatisfactory and (a) fails to comply with the Regulations (b) is not in accordance with the Memorandum [of 1959] (c) is contrary to principles of good management.⁶³⁶

In particular the report commented:

The staff of the Home are of poor calibre. None is trained. Few have relevant experience. There have been many changes. Many have left in discord with the Matron. Until 23.9.59 the Matron appointed and dismissed staff without reference to anyone...

⁶³⁰ NRS ED11/517/1, report, Child Care Inspectors, SHD, December 1959, at SGV-000061829, pp.4-25. The Child Care Inspectors conducting the visit were C. R. Corner, Chief Inspector, Child Care and Probation with W. N. Smith, J. M. Anderson, & L. R. Maddock. Until his appointment in 1958, Corner had been an inspector in the Home Office's Children's Branch.

⁶³¹ The report recorded that the Roman Catholic homes were "institutional" where "the male influence" was "absent", at SGV-000061829, p.17.

⁶³² NRS ED11/517/1, minute, W. S. Kerr, Principal, SHD, at SGV-000061829, pp.91-92; letter, C. R. Corner, Chief Inspector, Child Care and Probation, 22 January 1960, at SGV-000061829, pp.86-90.

⁶³³ NRS ED11/517/1, minute, W. S. Kerr, Principal, SHD, at SGV-000061829, pp.91-92; letter, C. R. Corner, Chief Inspector, Child Care and Probation, 22 January 1960, at SGV-000061829, pp.86-90.

⁶³⁴ NRS ED11/517/1, minute, W. S. Kerr, Principal, SHD, at SGV-000061829, pp.91-92; letter, C. R. Corner, Chief Inspector, Child Care and Probation, 22 January 1960, at SGV-000061829, pp.86-90.

⁶³⁵ NRS ED11/417, note, R. J. W. Clark, Assistant Principal, SED (Private Secretary to W. F. Arbuckle, Secretary, SED), 3 Feb, & Maclay's letter to J. Taylor, West Lothian's MP, 7 February 1961; *Scotsman*, "Maclay orders inquiry", 13 February 1961.

⁶³⁶ NRS ED11/573/1, report, C. R. Corner, Chief Inspector, Child Care and Probation, 28 April 1961, at SGV-000000057, p.45.

The hygiene of the Home is poor. Lavatories are left unclean, and there was no toilet paper in several. There were no towels or soap in the lavatories for either domestic staff or children. One lavatory pan, in the under fives' lavatories was cracked. Fitments are provided to hold each child's towel, flannel, soap and tooth cleaning materials, but these were not in their place. A succession of boys was washed and dried with the same flannels and towels. Bath time practice and supervision are ill conceived and ineffective. Some children are unnecessarily left naked for long periods. Care of the children's feet are unsatisfactory. Dental care is unsatisfactory. None of the children had a handkerchief. They said they did not possess any but that Matron sometimes gave them paper tissues. Bed covers in the dormitories were dirty; rubber sheets on the beds of enuretics were inadequate. All the bedclothes in the cots in the nursery were soaked with urine in the morning. Although enuretics are made acutely conscious of their failing, they are not given their recommended medication regularly. Food is carelessly handled. The Medical officer does not visit regularly...

Meals are part of a dull routine rather than a shared opportunity for refreshment, service, pleasure and conversation. Children and staff do not eat together at Wallhouse. The Matron is away at breakfast and the evening meal, driving her husband to and from work. Service and supervision are perfunctory, unimaginative and disorganized, food dull and unappetizing. After the children have had their food, Matron and the other staff have theirs, the Matron separately in her office. The menu book shows that the staff do not always have the same food as is provided for the children; the order books support the allegations that the Matron's meals are superior in quality and quantity to that provided for the children and the other staff...

Clothes are kept locked in the linen room, and Sunday shoes in a bootroom, with the laces removed. Some items were marked with the child's name, but former members of staff say the children do not have individual clothes. The children have neither handkerchiefs nor slippers, although the [West Lothian County Council's] Children's Officer said that these were part of each child's outfit...

Facilities for recreative activities are inadequate and neglected. The playroom is bare and repelling – its only furniture at the time of our inspection was one bench. Metal climbing frames and see-saws were lying rusted and useless in the basement. We were told that the children could play table tennis in the dining room if they wished. A new football was unused. The children keep their books and toys in lockers or drawers in their bedrooms – all but the older boys' in great confusion. The under fives had no playthings, apart from rubber dolls and animals in their nursery, and when in the playroom are liable to be overwhelmed by the high spirited activities of the older ones. ...Television is the mainstay of

the children's amusement in the house; the projector, when we visited was out of focus, and the television room cold.⁶³⁷

The inspectors interviewed the home's matron and gave her the opportunity to respond to the allegations. On the issue of corporal punishment, she denied that it was in constant use, but accepted that after one incident at mealtime where two boys had thrown bread at each other that both had been given "a cuff in the ear"—the matron had been absent at the mealtime as was "her usual arrangement".⁶³⁸ The matron acknowledged that it was "difficult at times to maintain discipline and yet allow the children their freedom", but that she had

always preferred to scold and reprimand them in a reasonable way without ever having to resort to corporal punishment. Occasionally a "cuff in the ear" is administered, but this she does not regard as corporal punishment.⁶³⁹

The SED's Secretary accepted the report and that the home was "unsatisfactory" and advised Maclay that the County Council should be advised that it should take steps to "remedy matters".⁶⁴⁰ Maclay agreed to the recommendation and later the County Council replaced the matron and introduced other measures to improve conditions at the Home.⁶⁴¹

The retained NRS files do not indicate that there had been an inquiry of such depth into a children's home before Wallhouse, but it is evident that future inspections began from similar principles to assess satisfactory or rather "unsatisfactory" care. If the hygiene of a home was poor, if the medical officer did not visit regularly, if the meals were dull and unappetizing, if the children lacked their own clothes, and if recreational activity was inadequate and neglected, then it was clear that their needs were not being met. Equally, if there was no record of a punishment log and it was evident that children were struck on the body other than by "traditional" corporal punishment (as agreed with its managers), then the management of the home was in contravention of the Administration of Children's Homes (Scotland) Regulations, 1959. The report on Glasgow had indicated that the SHD believed that the standard of care depended greatly on the quality of staff within a home—especially the

⁶³⁷ NRS ED11/573/1, report, C. R. Corner, Chief Inspector, Child Care and Probation, SHD, 28 April 1961, at SGV-000000057, pp.52-54.

⁶³⁸ NRS ED11/573/1, report, C. R. Corner, Chief Inspector, Child Care and Probation, SHD, 28 April 1961, at SGV-000000057, p.86.

⁶³⁹ NRS ED11/573/1, report, C. R. Corner, Chief Inspector, Child Care and Probation, SHD, 28 April 1961, at SGV-000000057, p.87.

⁶⁴⁰ NRS ED11/573/1, submission, W. F. Arbuckle, Secretary, SED, 19 July 1961, at SGV-000000057, pp.138-142.

⁶⁴¹ NRS ED11/574/1, minute, Maclay, 2 August 1961; letters, County Clerk, West Lothian County Council, 27 September & 28 November 1961; report, C. R. Corner, Chief Inspector, Child Care and Probation, SHD, 25 April 1962, at SGV-000061822.

training that they had received—and the Wallhouse inquiry repeated those views. The Chief Inspector, Child Care and Probation had noted that the “staff were untrained, unqualified and for the most part inexperienced”.⁶⁴² The same conclusion was reached by the DHS’s Medical Officer who reported that Wallhouse’s pre-school children were “not in the charge of staff who have studied the normal development of the young child” and that they did “not possess the knowledge and skills to assist” such “children in the critical and formative period of their development.”⁶⁴³ Equally importantly the Wallhouse inquiry was authorised by Maclay, who accepted the criticism and agreed that measures should be taken to correct the unsatisfactory conditions.⁶⁴⁴ The SED, who after April 1960 held oversight of child care and children’s homes, was thus aware that ministerial direction had been given on conditions that breached acceptable levels of care.

The issues of poor hygiene, staff qualifications and lack of medical attention at the Lord and Lady Polwarth Home in Edinburgh were raised after the death of an 18 month old infant in 1967. The home, managed by the Church of Scotland, accommodated 25 children in the age range of zero to five years. Some only stayed for a few weeks ahead of adoption but others remained for more than two years. Its staff included a State Registered Nurse as matron, a Superintendent, two senior nurses, one part-time day nurse, two part-time night nurses and eight trainees (the latter aged between 15 and 17, but not undertaking training to National Nursery Examination Board—N.N.E.B.—standards). The medical officer visited weekly and was on call in event of specific illnesses. A routine child care inspection in mid-1967 had concluded that the home provided “good physical care of the children”, but that it suffered from “an insufficiency of background information” from field staff on each child’s admission.⁶⁴⁵ The home did not necessarily receive details of a child’s personal, family and medical history.⁶⁴⁶

⁶⁴² NRS ED11/573/1, report, C. R. Corner, Chief Inspector, Child Care and Probation, SHD, 28 April 1961, , at SGV-000000057, p.57.

⁶⁴³ NRS ED11/573/1, report, Dr. M. E. Mitchell, Medical Officer, DHS, 10 March 1961, at SGV-000000057, p.97. At the DHS Dr. Mitchell held responsibility for maternity and child welfare, see NRS SOE1/185, ‘Department of Health for Scotland: distribution of business, April 1962’. Prior to appointment in 1954, Dr. Mitchell had been Deputy M.O.H at Aberdeen and covered maternity and child welfare, see *Press and Journal*, ‘Welfare foods left on shelves’, 24 October 1950, & *Aberdeen Evening Express*, ‘MD degree for Dr. Mabel Mitchell’, 18 March 1952.

⁶⁴⁴ ED11/574/1, minute, Maclay, 2 August 1961, at SGV-000061822.

⁶⁴⁵ NRS ED11/691/1, report, J. G. Park, Child Care Inspector, SWSG, 8 June 1967, at SGV-000000069, pp.5-8. It was noted that the Home provided a diet that was “varied and adequate”, that its routine and recreational activity was “adapted” to the age of the children, and that the premises were “well maintained”.

⁶⁴⁶ NRS ED11/691/1, report, J. G. Park, Child Care Inspector, SWSG, 8 June 1967, at SGV-000000069, pp.5-8.

The death of the infant in November 1967 was attested to be the result of "gastro enteritis, acute renal failure, acute hepatic failure and cardiac arrest".⁶⁴⁷ The Child Care Inspector who completed the review of the death recommended that the SHHD medical officer attached to the work of the SWSG should be asked to comment on the medical aspects surrounding the death. The medical officer's report noted that:

[The Child Care Inspector's] scrutiny of the entries in the log-book indicated that gastric upset amongst the children had existed for some time. If an outbreak of infection in a Home is brought to the notice of the appropriate authority action can be taken to prevent the spread of infection. [The Child Care Inspector] has expressed concern about the failure of the Matron to notify the Children's Officer, West Lothian [who placed the child], Children's Welfare Supervisor, Church of Scotland and the parents at the start of the illness.

[...] I understand [that the Home's Medical Officer] does not carry out routine examination of all children on admission or prior to discharge. Some infants are transferred to the Home direct from hospital but others are admitted from their own homes or foster homes at the request of Children's Officers, who are asked to submit a medical certificate stating the child is free from infection. ...Matron was unable to state whether [the Medical Officer] had received an appointment as Medical Officer for the Home or whether he was only providing general medical services for the children placed on his list on admission to the Home. He did not appear to be carrying out all the responsibilities which fall to the Medical Officer under the Administration of Children's Homes (Scotland) Regulations, 1959...

Matron invited me to look round the nurseries and I observed certain matters which should receive attention. There is no wash-hand basin in the room which is used as a combined bathroom and toilet and after using the lavatory the children do not wash their hands which are merely wiped by the nurse with a damp sponge. There is no isolation room. Infants seven days of age are admitted from hospital and accommodated in the same nursery as children whose age range extends to the age of twelve months. Parents are encouraged to take their children home for weekends and the risk of infection being brought into the nursery is considerably heightened by this practice. There is a small nursery furnished with three cots but it was not in use and appeared to function as a store. The milk kitchen is not provided with a refrigerator and in consequence milk feeds prepared in advance stand on a table at room temperature. The Home carries a high proportion of untrained staff – eight

⁶⁴⁷ NRS ED11/855, report, J. G. Park, Social Work Adviser, SWSG, 19 March 1968, at SGV.001.002.7933. [closed file]

trainees to four permanent members. It does not provide training for the Nursery Nurses' certificate.⁶⁴⁸

The SWSG subsequently pressed the Church of Scotland on the issue of compliance with the Administration of Children's Homes (Scotland) Regulation, 1959 (6e). This stated that each child should be examined "on admission to the Home, thereafter at intervals not exceeding twelve months and immediately before discharge".⁶⁴⁹ It was informed later that a new medical officer had been appointed who would carry out the duties as specified in the Regulations, and that the home was to be converted into an ordinary children's home with a small unit for babies attached.⁶⁵⁰ In this particular case the breach of the Regulation concerning medical attention, and indeed the failure under Regulation 6(h) to prepare and submit to a child's administering authority the medical reports "prescribed" by Regulation 6(e), underlined SWSG's concerns.⁶⁵¹

Similar issues emerged after a series of inspections during 1968 at the Christie Homes, Haddington, which were managed by the Lothian's Homes Trust. The particular home at Haddington accommodated 50 children including between 12 and 15 in its nursery. Another located at North Berwick, was used as a holiday home. A Child Care inspection in 1963 noted that the matron, who had been at the home for over 20 years, was a qualified domestic science teacher, but apart from one other member (also a qualified teacher) there was no indication that any of the other staff held a child care or nursing qualification.⁶⁵² In summary the inspection concluded that:

The Home is now fully staffed and the better staff conditions have made it easier to recruit new members. The children look well and they were well cared for. The house was comfortably warm and much has been done to make the interior brighter. The system of records could be improved. ...The house is well equipped but there is a lack of play material for the younger child.⁶⁵³

⁶⁴⁸ NRS ED11/855, report, Dr. M. E. Mitchell, Medical Officer, SHHD, 24 May 1968, at SGV.001.002.7940. [closed file]

⁶⁴⁹ NRS ED11/855, minute, J. G. Park, Social Work Adviser, SWSG, 5 December 1968, at SGV.001.002.7942. [closed file]

⁶⁵⁰ NRS ED11/691/1, report, J. G. Park, Social Work Adviser, SWSG, 31 January 1969 at SGV-000000069, p.12. The unit would be staffed by a Registered General Nurse or a Registered Sick Children's Nurse. The trainee "nurses" were being phased out.

⁶⁵¹ NRS ED11/855, minutes, J. G. Park, Social Work Adviser & SWSG's Child Care branch, 5, 18 & 26 December 1968, at SGV.001.002.7942-7943. [closed file]

⁶⁵² NRS ED11/688/1, report, N. C. J. Sharp, Child Care Inspector, SHHD, November 1963, at SGV-000000066, pp.68-72.

⁶⁵³ NRS ED11/688/1, report, N. C. J. Sharp, Child Care Inspector, SHHD, November 1963, at SGV-000000066, p.72.

It noted that each child was examined on admission by a local G.P., the Home's medical officer, and that the meals were "varied and well balanced."⁶⁵⁴ A further report 18 months later concentrated on the nursery, the Inspector reporting that whilst the children were "physically well cared for", the building was "not ideal for nursery purposes and the staff in charge of the nursery [were] young and untrained."⁶⁵⁵ Two specific issues emerged at the Christie Homes during 1968. The first concerned the death of an infant in 1967 and the second the Home's punishment regime.

The death of the six-month old infant was certified as a result of asphyxiation, though the SWSG acknowledged that there were other circumstances that surrounded the admission of the boy to the home. The Social Work Adviser's report on the death noted that since his admission the home had given the infant "good physical and medical care", but that the death appeared to have been related "to a set of circumstances...peculiar to the disposition of staff and particularly so on the day of his death".⁶⁵⁶ The matron who was responsible for the staffing arrangement had taken the older children with the majority of staff to the Trust's "holiday" home at North Berwick, leaving the younger children in the care of the Deputy who also managed the nursery. As two members of the nursery staff were off duty that day, the care of the infant was left to a student teacher who the Social Work Adviser noted had little experience of looking after babies. The Social Work Adviser recorded that:

Exactly how...handled [the infant] with his lunch, whether she got his wind up and whether she lay him on his back in his pram cannot be ascertained. The Procurator Fiscal took no further action following police enquiries and one could not go further into this now...It is known that...had little experience with babies but she had handled [the boy] occasionally before and there is no criteria as to the care and handling of babies in Children's Homes.⁶⁵⁷

⁶⁵⁴ NRS ED11/688/1, report, N. C. J. Sharp, Child Care Inspector, SHHD, November 1963, at SGV-000000066, p.70.

⁶⁵⁵ NRS ED11/688/1, report, N. C. J. Sharp, Child Care Inspector, SHHD, 1 March 1965, at SGV-000000066, p.67.

⁶⁵⁶ NRS ED11/688/1, report, D. S. MacLean, Social Work Adviser, SWSG, 2 July 1968, at SGV-000000066, pp.56-61.

⁶⁵⁷ NRS ED11/688/1, report, D. S. McLean, Social Work Adviser, SWSG, 2 July 1968, at SGV-000000066, p.61.

The Social Work Adviser recommended that a review of the lack of training and staff ability in such homes should be undertaken, which the Chief Social Work Adviser accepted.⁶⁵⁸

The second issue concerned the Home's punishment regime. In June 1968 the SWSG's Social Work Adviser noted that a slipper was the usual method of corporal punishment but that the matron had not sought the necessary authority of her Board of Governors for its use, as required under the Administration of Children's Homes (Scotland) Regulations, 1959, (10) and (11).⁶⁵⁹ Additionally, it was noted that the punishment log book, which had been opened after an inspection the previous year, recorded that one child was required to wash their mouth with soapy water (for the use of "foul language") and that the matron had bitten a child on the hand.⁶⁶⁰ The latter child had apparently bitten another younger child. The matron accepted the advice and agreed to abide by the Regulations.

The death of the infant and the issue of its punishment regime resulted in a full Social Work Adviser review of the recent Christie's inspections in October 1968 that concluded that the Home's "Deficiencies" were significant to warrant official action.⁶⁶¹ There was an "ignorance of the principles and professional practice of residential child care" and an "absence of training amongst residential staff".⁶⁶² Infant care required "special attention". After correspondence with the SWSG on its standard of care the Lothian's Homes Trust replaced the matron and informed the SWSG of other management changes designed to improve practice.⁶⁶³

In both the Polwarth and Christie Homes it is evident that the SWSG centred their concerns first on the breach of the Administration of Children's Homes (Scotland)

⁶⁵⁸ NRS ED11/688/1, minutes, J. G. Gardiner, Social Work Adviser & B. Jones, Chief Social Work Adviser, SWSG, 23 October 1968, at SGV-000000066, pp.51-52. Jones was the first Scottish Chief Social Work Adviser. During her early career as a teacher in 1943 she became the organising secretary of the South Wales and Monmouthshire Association of Girls' Clubs. After the War Jones went to Germany as a youth education officer with the Allied Control Commission working with refugees. She then became Glamorgan County Council's first Children's Officer and by 1960 had expanded the provision of foster care sufficient to close the local authority's children's homes, see *Western Mail*, 'Girls clubs', 7 May 1943, and *Glasgow Herald*, 'Beti Jones: an appreciation', 13 December 2006.

⁶⁵⁹ NRS ED11/854/1, report, D. S. MacLean, Social Work Adviser, SWSG, 27 June 1968, at SGV.001.008.5012-5014. The Matron stated that she kept a cane, but seldom used it.

⁶⁶⁰ NRS ED11/854/1, report, D. S. MacLean, Social Work Adviser, SWSG, 27 June 1968, SGV.001.008.5012-5014.

⁶⁶¹ NRS ED11/688/1, minute, J. G. Gardiner, Social Work Adviser, SWSG, 23 October 1968, at SGV-000000066, pp.51-52.

⁶⁶² NRS ED11/688/1, minute, J. G. Gardiner, Social Work Adviser, SWSG, 23 October 1968, at SGV-000000066, pp.51-52.

⁶⁶³ For a note of the SWSG's intention to pursue the matter, see NRS ED11/731/1, minute, P. A. Cox, Assistant Secretary, 28 August 1968, at SGV.001.006.7429; see also NRS ED11/688/1, minute, J. V. B. Neilson, Social Work Adviser, SWSG, 20 February 1969, at SGV-000000066, p.43.

Regulations, 1959. Once that was ascertained it felt able to comment on the observed "deficiencies" of care.

As indicated above the Chief Inspector, Child Care and Probation's report on Glasgow in 1959 raised some concerns on conditions at a number of its children's homes. One of the homes, Gryffe, Bridge of Weir, which had accommodation for 56 boys of school age, was "run on institutional lines because it is too big to be absorbed in the local community and living space inadequate".⁶⁶⁴ A further inspection of Glasgow's homes between 1965 and 1966 noted that the records on children, required under the Administration of Children's Homes (Scotland) Regulations, 1959, were not kept up-to-date or were missing.⁶⁶⁵

In September 1967, a number of boys and previous staff at the home related to a journalist that Gryffe relied for control on the excessive use of corporal punishment together with other forms of personal degradation.⁶⁶⁶ The press reports subsequently led to the Corporation of Glasgow's Children's Department conducting an internal investigation into the alleged excesses that concluded that there had been an infraction of its punishment regulations, though not at the level of all the allegations made.⁶⁶⁷ Its regulations followed from the requirement contained within the Administration of Children's Homes (Scotland) Regulations, 1959.⁶⁶⁸ In response to a campaign for a public inquiry the Joint Parliamentary Under-Secretary of State, Millan, met with representatives of Glasgow Children's Committee to discuss Gryffe and other matters connected to the conduct of its children's services.⁶⁶⁹ Subsequently the SWSG minuted Millan on the matter and enclosed a copy of Glasgow's investigation. The minute recommended that whilst there was no necessity to hold a public inquiry—the allegations in the press had been "grossly exaggerated"—the investigation had "perhaps been a little less open" than it might

⁶⁶⁴ NRS ED11/517/1, report, C. R. Corner, Chief Inspector, Child Care and Probation, SHD, December 1959, at SGV-000061829.

⁶⁶⁵ NRS ED11/669/1, report, M. J. Morrison, D. P. Hughes, J. V. B. Neilson, G. Halliday, & D. S. McLean, Child Care Inspectors, SHHD, 22 July 1966, at sGV.001.006.7494-7525.

⁶⁶⁶ NRS ED11/698, The Corporation of Glasgow, letter, 21 November 1967, at SGV-000061832, p.235; report by Special Sub-Committee of Children's Committee, for consideration of the Children's Committee, 27 November 1967, at SGV-000061832, pp.240-245.

⁶⁶⁷ NRS ED11/698, Report by The Corporation of Glasgow's Children's Officer, for consideration by the Children's Committee at their meeting on 18 September 1967, at SGV-000061832, pp.183-186 & report by Special Sub-Committee of Children's Committee, for consideration of the Children's Committee, 27 November 1967, at SGV-000061832, pp.240-245.

⁶⁶⁸ NRS ED11/854/1, submission, R. D. M. Bell, Under-Secretary, SWSG to Millan, 20 October 1967, at SGV.001.008.4960-4907.

⁶⁶⁹ NRS ED11/670/1, report, Glasgow's Children's Officer on Gryffe, 18 September, & minute of meeting, Joint Parliamentary Under-Secretary of State and representatives of Glasgow Children's Committee, 3 November 1967.

have been.⁶⁷⁰ It appeared that the Home's Superintendent had not specifically been asked about the recording of punishments, "or what he [had] replied".⁶⁷¹ In response to the SWSG submission, Millan minuted,

although the purpose of the enquiry was to investigate "allegations of excessive punishment" there is virtually nothing in the report about the scale of punishment as compared to the recording of it but it seems pretty clear that the scale of punishment was also excessive according to the rules. ...the implication [of the report] is that most of the boys at the Home are dissatisfied in one way or another with the conditions there...To sum up on this, I think that we ought to make it clear in our official discussions with the Corporation on the future of the Gryffe Home that while we accept that the more extreme allegations against the conduct of the Home have not been substantiated, we nevertheless think that the situation disclosed by the committee of enquiry is a serious one and we shall want to see it considerably improved.⁶⁷²

Following the minute, the SWSG Assistant Secretary with responsibility for child care (together with the Chief Inspector, Child Care and Probation) met Glasgow's Convenor of the Children's Committee and other officials. The Convenor assured the Assistant Secretary that the Superintendent had been told to reduce the amount of punishment and that the Council's punishment regulations should be followed.⁶⁷³ The Convenor also stated that a new appointment, a Supervisor of Homes, would visit each of the homes once a month and sign the punishment log. The Assistant Secretary minuted that she had "some doubt...as to whether a limited measure of this kind would really be adequate to detect abuses."⁶⁷⁴ In a separate minute the SWSG's Child Care Branch Principal recorded more detail of the abuses at the Home that included "the whacking of the boys in the corridor, the whacking of boys for misdemeanours for which they had already been punished at school, the punishment of being made to stand at meals" and "the humiliating bathing procedure" of cold

⁶⁷⁰ NRS ED11/698, submission, R. D. M. Bell, Under-Secretary, SWSG, 29 November 1967, at SGV-000061832, pp.252-253.

⁶⁷¹ NRS ED11/698, submission, R. D. M. Bell, Under-Secretary, SWSG, 29 November 1967, at SGV-000061832, pp.252-253.

⁶⁷² NRS ED11/698, minute, Millan, 13 December 1967, at SGV-000061832, p.275.

⁶⁷³ NRS ED11/670/1, note of meeting, SWSG & Glasgow Corporation Children's Department, 15 December 1967, at SGV-000000070, pp.239-242. SWSG attendees were P. A. Cox, Assistant Secretary, C. R. Corner, Chief Child Care and Probation Inspector, M. J. Morrison, Child Care Inspector, W. J. Strongman, Higher Executive Officer, and C. M. McPhail, Scottish Information Office.

⁶⁷⁴ NRS ED11/670/1, note of meeting, SWSG & Glasgow Corporation Children's Department, 15 December 1967, at SGV-000000070, SWSG attendees were P. A. Cox, Assistant Secretary, C. R. Corner, Chief Inspector, Child Care and Probation, M. J. Morrison, Child Care Inspector, W. J. Strongman, Higher Executive Officer, and C. M. McPhail, Scottish Information Office.

baths after a boy had absconded.⁶⁷⁵ The SWSG informed Millan that they had come away from the meeting “with a considerable amount of uneasiness” and stated that:

Nothing emerged which would alter the conclusion that the allegations of really excessive punishment and the allegations of punishments on the bare buttocks were unsubstantiated, but the clear picture emerged that the Convenor was aware that the Superintendent had largely ignored the statutory regulations and the Corporation’s rules with regard to punishment: he had exceeded the maximum number of strokes permitted, he had failed to record all corporal punishment, let alone other types of punishment, he had used corporal punishment freely instead of exceptionally, and he had probably (on the evidence of one member of staff) lined the boys up in rows to receive their punishment, against the rule that requires no other child to be present when another is punished.⁶⁷⁶

It added that “the Committee had taken no real steps to prevent a repetition of these abuses in the future.”

In January 1968 the SWSG wrote to the Corporation of Glasgow and accepted that the allegations had been exaggerated, but that the evidence from its inquiry indicated that its punishment regulations had been infringed. It sought assurances that “effective steps” would be taken at Gryffe to ensure regular inspection of the boys to prevent the re-emergence of “old practices”.⁶⁷⁷ It also sought assurances that the Children’s Committee would review transferring the Home’s Superintendent to other duties as he had “evidently been able to keep control only by a punitive approach of which neither we nor the Committee can approve”.⁶⁷⁸ The SWSG was later assured that as a result of reducing the number of boys at the home and the new system of inspection a “happier atmosphere” existed, though the Committee rejected transferring its Superintendent on the grounds that although he was inexperienced he “had tried to do a good job”.⁶⁷⁹

⁶⁷⁵ NRS ED11/670/1, minute, W. J. Strongman, Higher Executive Officer, SWSG, 18 December 1967, at SGV-000000070, p.237. In a minute written later the official stated that “there was little doubt that excessive punishment had been administered”, NRS ED11/854/1, 29 January 1969, at SGV.001.008.5029.

⁶⁷⁶ NRS ED11/670/1, submission, R. D. M. Bell, Under-Secretary, SWSG, 20 December 1967, at SGV-000000070, pp.248-249; see also letter, P. A. Cox, Assistant Secretary, to the Corporation of Glasgow, 3 January 1968, at SGV-000000070, pp.262-265. The cold bathing appears to occurred when the hot water system ran short in the evening.

⁶⁷⁷ NRS ED11/670/1, letter, P. A. Cox, Assistant Secretary, SWSG, 3 January 1968, at SGV-000000070, pp.262-265.

⁶⁷⁸ NRS ED11/670/1, letter, P. A. Cox, Assistant Secretary, SWSG, 3 January 1968, at SGV-000000070, p.264.

⁶⁷⁹ NRS ED11/731/1, note of meeting between SWSG and Glasgow’s Children’s Committee, held on 26 January 1968, at SGV.001.006.7309; reports, W. Hull, Child Care Inspector, SWSG, 23 & 25 January 1968, at SGV.001.006.7303-7306. SWSG attendees were R. D. M. Bell, Under-Secretary, M.J. Morrison, Child Care Inspector, W. Hull, Child Care Inspector, and W. J. Strongman, Chief Executive Officer.

The allegations made at Gryffe caused Millan to agree that the SWSG should conduct a survey of the disciplinary measures used within children's homes as a precursor to a review of central Government regulations.⁶⁸⁰ He had been informed that:

The position with regard to children's homes in Scotland is of course different from that...in England and Wales...in that the Scottish Regulations...do not lay down any maximum scale of corporal punishment, but leave local authorities to make their own rules with regard to the manner and limits of administering corporal punishment.⁶⁸¹

The survey took longer than anticipated, partly due to the nature of the information collected, and by the desire to compare the Scottish practice with that south of the Border. Three issues stemmed from the survey. First, the use of serious corporal punishment seemed more prevalent in Scotland compared to England; second, in Scotland, the practice of corporal punishment was more prevalent in voluntary homes than in local authority homes; and finally, the SWSG believed that there was a substantial amount of under-reporting of its use throughout the sector.⁶⁸² Indeed, the survey revealed (as at Christie's Home and Gryffe) that other forms of punishment existed or had existed. As a result, in May 1969 the SWSG informed Millan that there appeared to be considerable infraction of the Administration of Children's Homes (Scotland) Regulations, 1959. Corporal punishment remained even where the local body had not laid down regulations for its use.⁶⁸³

Following the survey, Millan met the SWSG, and the SED H.M. Inspector of Schools and SHHD Medical Officer assigned to the SWSG on approved school issues. After discussion Millan stated that

it would be impracticable at this stage to ban corporal punishment entirely, and that the intermediate stage proposed...[by officials], regulating the maximum amount of punishment permissible, was necessary. The implication of the present rule that corporal punishment was to be "exceptional" should be retained, and managing bodies should still be free to ban all corporal punishment in homes under their control. The possibility of banning the use of the tawse and confining corporal punishment to slapping the child's hand or leg

⁶⁸⁰ NRS ED11/854/1, minute, Millan, 19 January 1968, following submission, R. D. M. Bell, Under-Secretary, SWSG, 18 January 1968, at SGV.001.008.4946.

⁶⁸¹ NRS ED11/854/1, submission, R. D. M. Bell, Under-Secretary, SWSG, 18 January 1968, at SGV.001.008.4946.

⁶⁸² NRS ED11/854/1, minutes, P. A. Cox, Assistant Secretary, 4 November 1968, at SGV.001.008.5020; W. J. Strongman, Chief Executive Officer, SWSG, 29 January 1969, at SGV.001.008.5029. The Home Office in England only surveyed the use of the cane, and not the strap, which was restricted to boys of a certain age.

⁶⁸³ NRS ED11/854/1, submission, R. D. M. Bell, Under-Secretary, SWSG, 29 May 1969, at SGV.001.008.5065-5070.

with bare hand should be explored. Unacceptable punishments such as deprivation of meals should be specifically debarred.⁶⁸⁴

As a consequence he decided that the existing Administration of Children's Homes (Scotland) Regulations, 1959, should be "re-enacted" and that discussions with Directors of Social Work, local authority associations and voluntary homes should be opened to find ways of reducing the use of corporal punishment.⁶⁸⁵ Millan's equivocation over a ban on corporal punishment stemmed from two sources. First, as the outgoing Chief Inspector, Child Care and Probation had commented, public opinion remained divided between those in favour of a ban and those against.⁶⁸⁶ It was the latter who were most likely to voice strong views if "serious disorder" broke out and staff found difficulty in re-asserting control. Second, the Minister understood that the introduction of new regulations would require a period of consultation with the interested bodies, as had occurred between 1958 and 1959.⁶⁸⁷ The Social Work (Scotland) Act, 1968, was due to be implemented in November 1969, and the period of time to consult with the new directors of local authority social work departments and voluntary bodies who managed children's homes was too short. The SWSG was already aware that during discussion on Gryffe, Glasgow's Children's Committee remained committed to the use of corporal punishment in children's homes, albeit within the regulations.⁶⁸⁸ Millan, himself, had at the beginning of the review stated that he found "this a very difficult subject", a position shared by SED's Secretary who minuted the SWSG that:

I assume that you will keep in mind what is being said to the ordinary schools on this subject. There are no doubt distinctions that can be made between children's homes and schools, but I should have thought it was desirable to avoid any major inconsistency.⁶⁸⁹

⁶⁸⁴ NRS ED11/854/1, note of meeting, 18 July 1969, at SGV.001.008.5085-5086. Attendees were Millan, R. D. M. Bell, Under Secretary, B. Jones, Chief Social Work Adviser, P. A. Cox, Assistant Secretary, SWSG, J. S. Murphy, H.M. Inspector of Schools, SED, & Dr J. Ward, Medical Officer, SHHD.

⁶⁸⁵ NRS ED11/854/1, note of meeting, 18 July 1969. at SGV.001.008.5085-5086. Attendees were as above.

⁶⁸⁶ NRS ED11/854/1, minutes, C. R. Corner, Chief Inspector, Child Care and Probation, 16 October 1967, at SGV.001.008.4904; 15 January 1968, at SGV.001.008.4942-4943.

⁶⁸⁷ NRS ED11/854/1, note of meeting, 18 July 1969, at SGV.001.008.5085-5086. Attendees were as above.

⁶⁸⁸ NRS ED11/731/1, note of meeting between SWSG and Glasgow's Children's Committee, held on 26 January 1968, at SGV.001.006.7308-7310. SWSG attendees were R. D. M. Bell, Under-Secretary, M.J. Morrison, Child Care Inspector, W. Hull, Child Care Inspector, and W. J. Strongman, Chief Executive Officer.

⁶⁸⁹ NRS ED11/854/1, minutes, Millan, 23 October 1967, at SGV.001.008.4910; N. W. Graham, Secretary, SED, 23 January 1968, at SGV.001.008.4955.

A Statement of Principles and Code of Practice for schoolteachers on a gradual move towards the abolition of corporal punishment was published in February 1968.⁶⁹⁰

The Administration of Children's Homes (Regulations), 1959, (13) stated that in cases of misadventure the administering authority should "forthwith inform the Secretary of State" of a child's death, and should "supply the Secretary of State such further information about the circumstances of the case as he may require".⁶⁹¹ The Boarding-out of Children (Scotland) Regulations, 1959, (15) stated that the care authority or voluntary organisation by whom a child has been boarded out should, if the child died, or suffered an illness or injury that was likely to result in death or a serious disability, "inform the Secretary of State", and should "supply the Secretary of State such further information about the circumstances of the occurrence as he may require".⁶⁹²

One such case concerned a two and a half year-old Glasgow child who died in hospital in ██████████ 1966.⁶⁹³ The child had been received into care under Section 1 of the Children Act, 1948, 18 months previously when it was discovered the mother was neglecting the child and their siblings.⁶⁹⁴ The mother was charged with leaving them unattended and was placed on six months suspended sentence, then admonished. Later the children became the responsibility of the father who had recently been released from prison. It was then reported by the Police that the father had left the children unattended and in a neglected state, and the toddler

was found to be bodily filthy with dirt ingrained into his skin. He was clad in a filthy shirt, saturated foul smelling vest and jumper and his head was scabby and dirty. This child suffered from a large bruise and swelling on his forehead and a swelling below the right eye which was nearly closed and very inflamed. The child walked with a limp and both legs were badly bruised.⁶⁹⁵

The father was arrested and before Sheriff Daiches at Glasgow Sheriff Court was sentenced to six months imprisonment. The child with their siblings were placed in the care of the local authority, but later died. The Child Care Inspector reported that

⁶⁹⁰ [Cmnd. 3949] SED, *Education in Scotland, 1968. A report of the secretary of state for Scotland*, (April 1969), at LEG-000000195, p.34.

⁶⁹¹ The Administration of Children's Homes (Scotland) Regulations, 1959, (13), at LEG.001.001.2719.

⁶⁹² The Boarding-out of Children (Scotland) Regulations, 1959, (15), at LEG.001.001.0018.

⁶⁹³ NRS ED11/654, report, E. McKenzie, Child Care Officer, Corporation of Glasgow: Children's Department, 8 February 1966, at SGV-000061823, pp125-126. [closed file]

⁶⁹⁴ NRS ED11/654, report, E. McKenzie, Child Care Officer, Corporation of Glasgow: Children's Department, 8 February 1966, at SGV-000061823, pp.125-126. [closed file]

⁶⁹⁵ NRS ED11/654, report, E. McKenzie, Child Care Officer, Corporation of Glasgow: Children's Department, 8 February 1966, at SGV-000061823, p.125. [closed file]

the relevant case papers were “full” and “up-to-date”, and that the child had received “good care” whilst fostered.⁶⁹⁶

Two other cases in this period, both reported in the press, re-enforced the SED’s, and later the SWSG’s, knowledge of the circumstances where children were “at risk”. The first concerned the death in 1966 of a seven-week old infant with down’s syndrome. The infant had been smothered by its mother and Sheriff Aikman Smith at Aberdeen Sheriff Court placed her on probation for two years and ordered treatment in a mental hospital for up to a year.⁶⁹⁷ After a request from the infant’s GP, the local authority had placed the child at Pitfodels Resident Nursery, the GP recording that the parents “might cause injury to the child”. Subsequently, after inconclusive discussion on the amount of the parental contribution for the care, the parents removed the child from the nursery, and within an hour the child was smothered by the mother. The Child Care Inspectorate had already reported that at the request of several G.P.s the local authority had removed three other infants with down’s syndrome on the ground that their parents had “refused to be physically responsible for them”.⁶⁹⁸ The Assistant Secretary of the SED’s Child Care division noted the death and the other cases and recommended to the SED’s Under-Secretary who covered the division that whilst “[n]o action was called for at this stage”, the Department “shall keep in touch with developments.”⁶⁹⁹ The Under-Secretary agreed, citing it “a sad case”.⁷⁰⁰

The SED received a further report some months later on the local authority’s decision to accept children with down’s syndrome into care.⁷⁰¹ The Head of the SED’s Child Care branch agreed that the children appeared to have been “properly” taken into care under the Children Act, 1948, Section 1 (1) (b) and (c).⁷⁰² The latter sub-section

⁶⁹⁶ NRS ED11/654, reports, G. Halliday, & M. J. Morrison, Child Care Inspectors, SHHD 22 & 23 March 1966, at SGV-000061823, pp.127-128. [closed file] The reports were seen by C. R. Corner, Chief Inspector, Child Care and Probation, SHHD, 22 February 1966.

⁶⁹⁷ *Press & Journal*, “Death at Aireyhall: man and woman in custody”, 6 December 1966: *Aberdeen Evening Express*, ‘Mother killed mongol baby,’ 19 Dec, 1966: *Scottish Daily Express*, “A Mother obsessed”, 20 December 1966.

⁶⁹⁸ NRS ED11/855, report, H. Laurie, Child Care Inspector, SHHD, 6 December 1966, at SGV.001.002.7773. [closed file]

⁶⁹⁹ NRS ED11/855, minute, I. M. Wilson, Assistant Secretary, SED, 12 December 1966, at SGV.001.002.7773. [closed file]

⁷⁰⁰ NRS ED11/855, minute, R. P. Fraser, Under-Secretary, SED, 13 December 1966, at sGV.001.002.7773. [closed file]

⁷⁰¹ NRS ED11/855, minute, C. M. Durie, SED, 13 April 1967, at SGV.001.002.7782; covering report, D. Grant, Child Care Inspector, SHHD, 3 April 1967, at SGV.001.001.7780. The report had been seen by C. R. Corner, Chief Inspector, Child Care and Probation, SHHD, 5 April 1967. [closed file]

⁷⁰² NRS ED11/855, minute, W. J. Strongman, Chief Executive Officer, SED, 13 April 1967, at SGV.001.002.7782. [closed file]

stated that such should occur "when the intervention of the local authority...is necessary in the interests of the welfare of the child".

The second case, which attracted the press, concerned a foster father who, in September 1967, was sent to prison for six years by Lord Fraser at Glasgow High Court for assault and cruelty on a two-year old Glasgow boy.⁷⁰³ The boy had suffered "multiple bruises, shock and ruptured bowels". The foster mother was sent to prison for six months for neglect. In the previous May the SED was informed by Glasgow Corporation's the Children's Department that "[i]n terms of Clause 15 of the Boarding-out of Children (Scotland) Regulations, 1959", it advised that the boy was admitted to Hospital "following injuries allegedly sustained following an accident caused by a fall from a swing and having fallen down a flight of stairs."⁷⁰⁴

The SWSG referred the case to its attached SHHD medical officer who reported that:

This case presents the 'battered baby syndrome' and is particularly distressing as the child in the care of Glasgow Local Authority, had been boarded-out. It is reported by the Child Care Inspector that [the Hospital] informed the Children's Department by telephone that the child was admitted with extensive bruising, dehydration and malnutrition.⁷⁰⁵

The SWSG asked that a full medical report should be made available. In the medical officer's second report they commented that:

As you know, we recently circulated the paper prepared by the British Paediatric Association to alert those concerned with the care of young children. This distressing case of severe, multiple injuries inflicted on a foster child is reminiscent of the circumstances which led to the death of Dennis O'Neil and which aroused public indignation to a degree that the Children Act, 1948 came into being.

It seems to me this cases raises two issues:- first, how widespread is the problem of injury to small children through wilful assault and second, what further action should be taken to prevent its occurrence?⁷⁰⁶

The SHHD's Medical Officer consulted the SHHD's Chief Medical Officer, who, in turn recommended that a review should take place on the case loads of Glasgow's child

⁷⁰³ *Glasgow Herald*, "Man jailed for six years for offence against foster son", 14 September 1967: *The Times*, "City to tighten fostering rules: Gaol sentence for cruelty", 14 September 1967: *Aberdeen Evening Express*, "Give access to police records – child care plea", 14 September 1967.

⁷⁰⁴ NRS ED11/698, letter, the Corporation of Glasgow: Children's Department, 9 May 1967, at SGV-000061832, p.3.

⁷⁰⁵ NRS ED11/698, minute, Dr. M. E. Mitchell, Medical Officer, SHHD, 11 July 1967, at SGV-000061832, p.17.

⁷⁰⁶ NRS ED11/698, minute, Dr. M. E. Mitchell Medical Officer, SHHD, 7 August 1967, at SGV-000061832, p.18; see also "The Battered Baby", British Paediatric Association, *British Medical Journal*, 1966, 1. 601-03.

care officers in the supervision of children.⁷⁰⁷ The SWSG undertook a detailed review and found that Glasgow's case load per officer was more than twice as great than a number of large English boroughs.⁷⁰⁸ At a meeting between the SWSG and the Medical Officer it was noted that:

The purpose of the meeting was to discuss whether notification by children's departments to local health departments in all cases where a child is placed in a foster home would help to minimise the risk of assault on such children; and whether the case-loads carried by field staff, with particular reference to the Glasgow Children's Department, are too heavy.

The case of...was a good illustration of the risks involved and it is unfortunate that nothing is laid down whereby the facilities of the supervisory health services are available to children in foster homes, as in the case of the normal home. There is a lack of systematic arrangements between children's department and health departments in this respect.

[...] It was agreed that...a circular would be issued to Children's Officers drawing attention to the article called "The Battered Baby"; advising children's departments to notify local health departments in all cases where children under five years of age are fostered; and reminding child care officers of the importance of ensuring that all members of a foster family are prepared to accept the foster child.⁷⁰⁹

A review of the discussions leading up to the Boarding-out of Children (Scotland) Regulations, 1959, revealed that the direct involvement of "the health supervisory services" with children's departments in the matter of fostered children had been "rejected".⁷¹⁰

The SWSG agreed that Millan should be advised of the coming trial and the issues that the case presented.⁷¹¹ The SWSG was already aware that the Corporation of

⁷⁰⁷ NRS ED11/698, minute, Dr. J. F. H. Brotherston, Chief Medical Officer, 9 August 1967; see also minute, Dr. E. M. Warwick, Senior Medical Officer, 11 August 1967, at SGV-000061832, pp.20-21. Prior to appointment in 1960 Dr. Warwick had held various posts in public health at Edinburgh, East Lothian, the Royal Army Medical Corps (with the rank of Major), Birmingham and latterly as Deputy Medical Officer of Health, Nottingham. Between 1955-56 Dr. Warwick was on secondment to the World Health Organisation in Nigeria advising on maternal and child welfare, see *Scotsman*, 'East Lothian Public Health appointment', 16 June 1936, and *Nottingham Evening Post*, 'Value of vitamins', 26 August 1950, & *British Medical Journal*, vol. 297, no. 6647, 1988, p.551, Obituary.

⁷⁰⁸ NRS ED11/698, minute, D. W. Murphy, SWSG, 15 August 1967, at SGV-000061832, p.24.

⁷⁰⁹ NRS ED11/698, SWSG minute of meeting, 15 August 1967, at SGV-000061832, p.26. The attendees were P. A. Cox, Assistant Secretary, M. J. Morrison, Child Care Inspector, W. J. Strongman, Chief Executive Officer, and D. W. Murphy, and Dr E. M. Warwick, Senior Medical Officer, SHHD.

⁷¹⁰ NRS ED11/698, minute, D. W. Murphy, SWSG, 17 August 1967, at SGV-000061832, p.25.

⁷¹¹ NRS ED11/698, minute, P. A. Cox, Assistant Secretary, SWSG, 30 August 1967, at SGV-000061832, pp.32-33.

Glasgow was in breach of the Boarding-out of Children (Scotland) Regulations, 1959 (12) (2) – it had failed to ensure that the boy was medically examined within a month of being placed, and that its officials failed to visit the foster home within two months of the placement, in breach of the Boarding-out of Children (Scotland) Regulations, 1959 (13).⁷¹² Additionally the Corporation of Glasgow appeared unaware that the foster father held a criminal record. The submission to the Junior Minister added that:

We cannot say of course that visits by the child care officer would have prevented the trouble. The [foster parents] general medical practitioner who examined...three days before the alleged assault reported that he was fit, well-nourished, in good general condition and making a good mental and social adjustment. He had a black eye, but unfortunately the general practitioner appears to have accepted without question the foster-parent's explanation that he had an accident on a swing. To add further to the list of apparent safeguards that failed in this case, one of the referees for the [foster parents], when they were originally accepted as foster-parents for [the boy's sister], was an officer of the Royal Scottish Society for the Prevention of Cruelty to Children for whom [the foster-mother] worked as an office cleaner.⁷¹³

The SWSG recommended (in addition to pressing Glasgow on the need for additional child care officers) that the memorandum on "The Battered Baby", which had been issued in 1966 should be re-issued, and that a "general circular" should be issued to local authorities on "the need to be on the lookout for the possibility of incidents of this kind, and to make one or two other suggestions which might increase the chances of preventing them in future."⁷¹⁴

Millan sought clarification of which person held responsibility for arranging a fostered child's "medical examination" and the "safeguards" on the choice of foster parents.⁷¹⁵ In a further submission, the Minister was advised that the Boarding-out of Children (Scotland) Regulations, 1959, covered the matters that he raised, though in the proposed circular the SWSG would recommend that child care officers should visit prospective foster parents in their homes before the child was placed, and

⁷¹² NRS ED11/698, submission, R. D. M. Bell, Under-Secretary, SWSG, 31 August 1967, at SGV-000061832, p.38.

⁷¹³ NRS ED11/698, submission, R. D. M. Bell, Under-Secretary, SWSG, 31 August 1967, at SGV-000061832, p.38.

⁷¹⁴ NRS ED11/698, submission, R. D. M. Bell, Under-Secretary, SWSG, 31 August 1967, , at SGV-000061832, p.39. The memorandum had been issued by the SHHD's Chief Medical Officer (Dr. J. H. F. Brotherston) to local medical officers of health and the SWSG believed also general practitioners. The SED had also issued it to local authority child care officers, see NRS ED11/698, minute, P. A. Cox, Assistant Secretary, SWSG, 30 August 1967, at SGV-000061832, pp.32-33.

⁷¹⁵ NRS ED11/698, minute, Millan, 4 September 1967, at SGV-000061832, p.38.

afterwards.⁷¹⁶ Additionally, it would propose that a children's department should not assume that where one child was "properly looked after", foster parents would treat a second child "equally well". The circular was issued in October 1967.⁷¹⁷

At the end of 1967 the SWSG, and for that matter Millan, had acknowledged the concept of the "Battered Baby", that is, an infant or toddler who had suffered assault and whose life was thus placed in danger. One such further case concerned the local authority care of the infant before and during his admission to voluntary home in 1967, where after a short period of time he died. Following established procedure, SWSG Social Work Advisers interviewed staff at the home and from the local authority children's department, in this case Edinburgh.

The investigation conducted a year later brought out three issues that concerned the SWSG. First, the infant, whilst residing with his parents had been admitted to hospital, but although advised by the police of bruising to the face, the Children's Department refrained from investigation. It stated that in the absence of evidence no charge had been preferred.⁷¹⁸ A month later, when informed that the parents were about to be made homeless, the infant was placed under supervision as a preventive case (under Section 1, Children Act, 1948).⁷¹⁹ Subsequently at eviction the infant was taken into care and placed in the voluntary home. A preliminary report by the Social Work Adviser indicated that although the infant's case officer had stated that there were written reports following the death "these were not on file".⁷²⁰ Additionally it appeared there had been "no co-ordination" between the several child care officers involved in the case. The concern raised by the report was echoed by the SHHD's Medical Officer. The issue for them concerned the response of the local authority in a case where there had been a "suspicion" of the "battered baby syndrome".⁷²¹ The Medical Officer noted the lack of information on "the reason for admission to hospital and the arrangements made for his after-care on discharge." A more detailed Social Work Adviser report followed and confirmed that without the infant's

⁷¹⁶ NRS ED11/698, submission, R. D. M. Bell, Under-Secretary, SWSG, 12 September 1967 at SGV-000061832, pp.58-59.

⁷¹⁷ NRS ED11/698, 'Child Care Circular Letter No. 5/1967: Fostering of Children', 5 October 1967, at SGV-000061832.

⁷¹⁸ NRS ED11/688/1, letter, J. G. Millar, Children's Officer, Corporation of Edinburgh, 12 June 1968, at SGV-000000066, p.62.

⁷¹⁹ NRS ED11/688/1, letter, J. G. Millar, Children's Officer, Corporation of Edinburgh, 12 June 1968, at SGV-000000066, p.62.

⁷²⁰ NRS ED11/855, report, E. C. Hunter, Social Work Adviser, SWSG, 28 April 1968, at sGV.001.002.7874. [closed file]

⁷²¹ NRS ED11/855, minute, Dr. M. E. Mitchell, Medical Officer, SHHD, 17 May 1968, at SGV.001.002.7876. [closed file]

“case record” it had proved impossible “to judge the quality of the preventive work given”, despite the statements of the staff concerned.⁷²²

Second, the Social Work Adviser’s report noted that at the time of the infant’s placement the Children’s Department’s medical certificate had stated, “Two days in [hospital] six weeks ago with facial bruising”. It further noted that to the question, “Is there any obvious peculiarity mental or physical?” the answer was “No”; and the answer to the question “General health of the applicant at present?” was “Good”.⁷²³ The Social Work Adviser’s report then noted that on admission the matron stated the infant “was the ‘sickest’ baby they had had, every time he had food he vomited and this caused her concern...if he was laying down he would however roll over onto his back.”⁷²⁴ Whilst the home stated that the infant had been taken to the local G.P. (who was the Home’s medical officer) for medical examination twice, there was no medical record of the visits at the Home, or the advice given. The Social Work Adviser concluded as a matter of policy that the SWSG should give further consideration to “the responsibility for medical aspects in Children’s Homes”.⁷²⁵

The third issue of concern related to the attitude of the local authority’s children’s department. The Social Work Adviser recorded that,

In the absence of Mr. Millar on holiday I first visited Mr. Thomas, Depute Children’s Officer on 20th June, 1968. He declined to let me see the case record of this child but answered questions I put to him...Later on 26th June, 1968, I had a brief discussion with Mr. Millar back from holiday. He had no objection to an Inspector seeing a case record and the problem should not arise in future in Edinburgh Child Care Service. He did, however, deplore quite strongly the enquiries being made and continuing for so long after the death of this child. He felt this was basically wrong on behalf of the Department. I pointed out the non-reply to [the Child Care Inspector’s] letter to him of 12th December, 1967 which he could not account for, but he said in terms of the Regulations that as a death had to be notified forthwith to the Secretary of State, he considered such inquiries as the Secretary of State deemed necessary should equally be made forthwith...He accepted the Secretary of State has a responsibility for the care of children, but failed to acknowledge how an investigation of a death involved the caring of children even if the Procurator Fiscal was satisfied with his inquiries in

⁷²² NRS ED11/688/1, report, D. S. McLean, Social Work Adviser, SWSG, 2 July 1968, at SGV-000000066, p.56-61.

⁷²³ NRS ED11/688/1, report, D. S. McLean, Social Work Adviser, SWSG, 2 July 1968, at SGV-000000066, p.57; see also letter, Corporation of Edinburgh, 12 June enclosing medical certificate, 6 July 1967, at SGV-000000066, pp.62-63.

⁷²⁴ NRS ED11/688/1, report, D. S. McLean, Social Work Adviser, SWSG, 2 July 1968, at SGV-000000066, p.57.

⁷²⁵ NRS ED11/688/1, report, D. S. McLean, Social Work Adviser, SWSG, 2 July 1968, at SGV-000000066, p.61.

terms of criminal negligence, He said if there was any suggestion of poor caring there should be a public enquiry.⁷²⁶

After reviewing the Social Work Adviser's report, the SHHD medical officer noted that it confirmed "the unsatisfactory approach of the Children's Department", and that they would wish to discuss the "disquiet" it had caused with the Chief Social Work Adviser.⁷²⁷ This case and that at Glasgow (above) led to the SWSG agreeing that as the death rate for children in care appeared "noticeably higher than for the child population as a whole", a Circular on "Deaths of Children in Care" should be issued by the Chief Social Work Adviser.⁷²⁸ The Circular was intended to ensure that local authorities kept the Secretary of State informed more fully of the circumstances of such death, and stated:

It is therefore suggested that those authorities who do not already do so, should after any death, carry out in co-operation with the medical adviser to the Children's Committee, a full review of the care given to the child and his progress in all his placements since he first came under supervision or into care, in addition to their review of the immediate circumstances leading to the child's death.⁷²⁹

Local authority review and co-ordination of supervisory procedures was especially stressed for children in voluntary homes, the Circular adding,

where a child in a voluntary home has been placed there by a local authority, the review of the child's progress should, of course, be carried out by the responsible local authority since they will be acquainted with the full history of the child before he was placed in the home.⁷³⁰

These cases illustrate the SED and subsequently the SWSG's increased concern on the deaths of children in the care of local authorities.⁷³¹ The position in England would appear to have been similar, with the DHSS in early 1970 producing a booklet on "The Battered Baby".⁷³² It seems to have been prompted by the National Society for the Prevention of Cruelty to Children, which had begun to keep records on

⁷²⁶ NRS ED11/688/1, report, D. S. McLean, Social Work Adviser, SWSG, 2 July 1968, at SGV-000000066, p.56; see also NRS ED11/731/1, minute, para 2, P. A. Cox, Assistant Secretary, SWSG, 28 August 1968.

⁷²⁷ NRS ED11/855, minute, Dr. M. E. Mitchell, Medical Officer, SHHD, 18 July 1968, at SGV.001.002.7891. [closed file]

⁷²⁸ NRS ED11/731/1, minute, R. D. M. Bell, Under-Secretary, SWSG, 4 September 1968, at SGV.001.006.7442; Circular, 1 October 1968, at SGV.001.006.7445-7446. The Circular was issued to local authority children's officers.

⁷²⁹ NRS ED11/731/1, SWSG Circular, 1 October 1968, at SGV.001.006.7446.

⁷³⁰ NRS ED11/731/1, SWSG Circular, 1 October 1968, at SGV.001.006.7446.

⁷³¹ NRS ED11/731/1, SWSG Circular, 1 October 1968, at SGV.001.006.7445-7446.

⁷³² NRS ED11/845, minute, H. M. Connor, Principal, SWSG, 25 August 1970, at SGV-000067159; The Standing Medical Advisory Committee, "The Battered Baby", February 1970, at SGV-000067159, pp.50-62.

battered children cases, principally with the aim of providing a measure of the incidence of physical abuse.⁷³³ The SWSG agreed that a similar booklet ought to be published for Scotland, aimed principally at health visitors, social workers, G.P.s., and staff in hospital casualty and paediatric departments.⁷³⁴ A circular signed by the Chief Medical Officer, the Chief Social Work Adviser, and the Chief Nursing Officer was issued in June 1972 with a Scottish booklet on "The Battered Child".⁷³⁵ It acknowledged that there remained "a lack of awareness of this syndrome among health and social workers who have contact with infants", and urged the establishment of local co-ordinating groups to ensure "effective liaison".⁷³⁶ The booklet sought to outline the circumstances where "serious physical maltreatment" of children should be reviewed by professional health and social work staff, but did not recommend specific procedures to be adopted.⁷³⁷ Although the booklet stated that each case should be investigated it outlined that it was a matter of professional judgement whether or not to accept the explanations for the child's injuries. A Social Work Adviser had previously commented on the issue:

If, as some apparently seek to do, they [local authority social work departments] were to assume responsibility for all the families at risk this would mean:-

dealing with 6,496 referrals yearly,

supervising 21,787 children

making over 100,00 visits yearly

being involved in several hundred court cases yearly.

Such a proposition does not merit serious consideration.

⁷³³ NRS ED11/845, background note for Secretary of State to answer a Parliamentary question, detailing a report by a Working Group of the Scottish Standing Medical Advisory Committee which contained a summary of recent research on the subject, c. 25 June 1973, at SGV-000067159, pp.348-349; see also, *Hansard*, "[Battered Babies](#)", 29 June 1973, 432W.

⁷³⁴ NRS ED11/845, minute, Standing Medical Advisory Committee: Working Group on the Battered Baby, 11 December 1970, at SGV-000067159, p.67.

⁷³⁵ NRS ED11/845, Report, by a Working Group of the Scottish Standing Medical Advisory Committee, "The Battered Child", June 1971, at SGV-000067159, pp.186-188.

⁷³⁶ NRS ED11/845, Report by a Working Group of the Scottish Standing Medical Advisory Committee, "The Battered Child", June 1971, at SGV-000067159, p.189.

⁷³⁷ NRS ED11/845, Report by a Working Group of the Scottish Standing Medical Advisory Committee, "The Battered Child", June 1971, at SGV-000067159, pp.186-188.

Bearing in mind the inadequacies exposed in the organisation and practice of social work in connection with recent deaths of children, we should be cautious about the tendencies of any advice we may issue or promote.⁷³⁸

The Social Work Adviser suggested the way forward was to develop a scheme that would assist children and their parents at "the lower ranges of neglect...but only to a point of danger which requires skill and experience to detect".⁷³⁹ It was a view shared by the SWSG's branch Principal who held responsibility for child care. He noted that

the omission of detailed guidance on procedures both from the Battered Child pamphlet and the accompanying circular was deliberate. And I think sound reasons could be advanced for not producing further material with the aim of defining the role of the police, the social workers etc.

[...] it must surely always be a matter of discretion as to whether the person or persons held responsible for injury to a child should be prosecuted or should be the object of intensive social work casework designed to trace root causes and prevent recurrence; this hardly seems a fit topic for a circular by the central department.⁷⁴⁰

The SWSG's Assistant Secretary who covered child care agreed that the appropriate course of action would be to develop an inter-agency administrative network "to deal with the problem", although the SHHD indicated that their medical advisers were against such action.⁷⁴¹ The Chief Social Work Adviser noted the response, but indicated that a pilot project was underway in south-east Scotland and centred on the Royal Hospital for Sick Children.⁷⁴² The aim was to "provide a model for quick communication and action in this field", though considerable discussion ensued on which agency would take the lead responsibility and maintain a "central register".⁷⁴³ In mid-1973 the Secretary of State, Gordon Campbell, was advised that:

Local arrangements for a co-ordinated approach in work involving child abuse have been slower to evolve in Scotland than in England where there was earlier initial publicity on this subject. There is considerable evidence, however, of increased concern on this subject both among child care agencies and medical

⁷³⁸ NRS ED11/845, minute, J. B. Gillespie, Social Work Adviser, SWSG, 4 March 1971, at SGV-000067159, p.115.

⁷³⁹ NRS ED11/845, minute, J. B. Gillespie, Social Work Adviser, SWSG 4 March 1971, at SGV-000067159, p.115.

⁷⁴⁰ NRS ED11/845, minute, D. A Bennet, Principal, SWSG, 28 January 1972, at SGV-000067159, p.269.

⁷⁴¹ NRS ED11/845, minutes, A. F. Reid, Assistant Secretary, SWSG, 4 February & 6 October 1972, at SGV-000067159, pp.271 and 319.

⁷⁴² NRS ED11/845, minute, B. Jones, Chief Social Work Adviser, SWSG, 18 October 1972, at SGV-000067159, p.320.

⁷⁴³ NRS ED11/845, minute, B. Jones, Chief Social Work Adviser, SWSG, 18 October 1972, at SGV-000067159, p.320; minutes, E. C. Hunter, Social Work Adviser, SWSG, 26 & 28 February 1973, at SGV-000067159, pp.338-341.

interests involved in the examination of cases of injury to children. SWSG and SHHD are at present considering together the issuing of advice on the development of local arrangements between the different professional and other interest involved based on experience in England in parts of Scotland where various systems have been tried.

[...]

Annual criminal statistics for Scotland are available in final form in respect of 1972...They show 243 cases where allegations involving "cruel and unnatural treatment" of children were made known to the police during the year. The returns from which these statistics are produced are not broken down to show instances of physical assault against children (of whatever age) separately...Even if satisfactory definitions could be produced to provide a category of "battered child" cases within this larger existing category the returns provided would not be a satisfactory measure of the extent of the problem.⁷⁴⁴

Thus, ahead of the Richard Clark case in 1974 and the subsequent inquiry, a comprehensive inter-agency policy towards dealing with child abuse remained only in embryonic form.⁷⁴⁵ The SWSG and Scottish ministers were certainly aware of individual cases of child abuse, whether defined as the "battered baby" syndrome, neglect, a threat to kill, or wilful assault and cruelty, but found securing a comprehensive appreciation of the term difficult to achieve.

Review

In the period after 1945, it is clear that officials in the SED and SHD, as well as ministers, were fully aware of the circumstances of children in care that did not meet statutory expectations. The court cases involving fostered children and an incident at an unnamed voluntary home were well documented. The SED also knew of incidents at approved schools. The retained files record the phrases, "alleged assault", "misconduct towards pupils", "improper conduct with boys in the school", "excessive punishment of boys", and "alleged irregular attack" on a girl. Punishment through the alteration of the diet and the practice of using pupils as "unpaid drudges" in the laundry was regarded as "irregular" and seen as inconsistent with the 1933 Care and Training Regulations. Laundry work should not be regarded as "training" when few would find laundry employment on discharge. Voluntary homes where domestic

⁷⁴⁴ NRS ED11/845, background note for Secretary of State to answer a Parliamentary question, detailing a report by a Working Group of the Scottish Standing Medical Advisory Committee which contained a summary of recent research on the subject, c.25 June 1973, at SGV-000067159, pp348-349; see also, *Hansard*, "[Battered Babies](#)", 29 June 1973, 432W. Campbell was Secretary of State from June 1970 to March 1974.

⁷⁴⁵ See, [Cmnd. 6052] Scottish Home and Health Department, *Health Services in Scotland: Report for 1974*, (June, 1975) para 2.23.

work was the "custom" were similarly criticised because pupils were providing "cheap labour". The use of corporal punishment in a voluntary home where the "knickers" were left off appeared to be outside the 1947 Boarding-out Regulations that stated that foster parents could not apply "harsh and indiscriminate punishment". The same Regulations required foster parents to supply food that was "wholesome, varied and sufficient to maintain good health". A diet based primarily on "carbohydrates" was judged insufficient.

The SED also used the regulations to assess the school's general management. Thus the "misdirection of staff and school" by a head and the lack of co-operation between a head and staff which impacted on the training offered was a matter of censure. Similarly, where a school's building had the appearance of being "unsuitable and gloomy" and the children were "poorly dressed" the general tone of the establishment was evidently "oppressive". The culture that pervaded a school was another element in the SED assessment of standards, as at one school where the head (later dismissed), conducted a regime based on "many irregularities" and "sadistic cruelty".

The official and ministerial attitude towards abuse in the widest sense took on a sharper focus after the introduction of new regulations for children's home and foster care in 1959, and for approved schools in 1961. For approved schools this reflected the political repercussions that a Carlton-type disturbance would cause at a time when the Kilbrandon Inquiry was already underway. In one case the lack of recreational activity was stated as the result of a breakdown in a school's management, and its shortcomings were not helped by the "vindictiveness" of staff towards the pupils. A "permissive" regime that tolerated violence between pupils, "irregular punishments", over-crowded dormitories, and workshops too small for the number of pupils, all suggested a "dangerous" environment for pupil care. Certainly, the use of "irregular punishment" was considered "abuse" if a pupil subject to corporal punishment was required to wear special "light" pants or pyjamas. A school where a pupil was struck or slapped on the face as punishment indicated that it failed to appreciate "modern methods of treatment". Any allegation of sexual misconduct towards pupils was taken seriously, as it had been since 1945, and was pursued to establish the outcome of management deliberations. Apart from the case of the school that used "light pants", the word "abuse" does not appear in official and ministerial papers. Instead the preference was to note a breach in the Regulations, and then to emphasise the seriousness of the issues raised.

There were two areas in which the SED, and later the SWSG, was prepared to accept a breach of policy. The first was a reduction in the space between beds in dormitory accommodation. Despite previous remarks on overcrowding in several schools, the

increase in committals in the mid-1960s meant a “temporary” acceptance of lower standards. The second area covered the balance between educational and vocational provision. The SWSG acknowledged that “educational deficiencies” existed in some schools that provided only vocational training. In considering an understanding of the term “abuse” within official and ministerial circles a certain elasticity of meaning is required.

The SED also focused on any infraction of the 1959 Regulations in children’s homes. Poor hygiene, which may have led to the spread of infection, the provision of food inferior to that offered to staff, the lack of clothing, the lack of recreational activities, and the use of “irregular punishments” were indicators of “unsatisfactory” care. “Irregular punishments” included cuffs on a child’s ear, biting a child’s hand, cold baths, and excessive and repeated corporal punishment. Such unsatisfactory care appeared to be related to the employment of staff who had little or no qualifications in nursing or childcare. In these circumstances it was accepted that “abuses” could re-emerge, if management practice was not altered.

The deaths and injuries to fostered children and those under supervised care brought out the concept of the “battered baby” or “battered child”. Two court cases, in 1966 and 1967, publicised the circumstances where neglect existed and what was meant by a charge of wilful assault and cruelty. A third, where the infant had been smothered by their mother, illustrated the meaning of a child “at risk”, and a fourth, the issues surrounding an allegation of ill-treatment. However, from the retained NRS records it is only in 1973 that an official document—a briefing paper for the Secretary of State—mentioned child abuse as a term, couched in terms of physical assault.

During the period 1945-74, it cannot be said that officials and ministers held a holistic view of what would now be termed child abuse. Rather from the evidence, officials and ministers viewed child abuse in four compartmentalised ways. First, a child could be sexually or physically assaulted in an institution, by foster parents, or under supervised care by their parents. Second, the conditions of a children’s home or approved/List D school could be considered “unsatisfactory” or even “dangerous”—whether the problem was in the state of the buildings, hygiene, diet, recreational facilities, staff qualifications, or the medical provision. Where such conditions existed, every child was affected. Third, “mass congregate care” in large institutions was seen as inimical to meeting a child’s individual needs. The evidence suggested that in order to maintain control, these institutions would be managed in a highly disciplinary manner—“punishment” first, then “training” or whatever care could be provided second. Again, every child would be affected. Fourth, from the late 1950s, “the many-times-multiplied prosecutions” of older children and their

committal to an approved/List D school was seen to be outside the intention of the Children Act, 1908. The "value" of these schools in promoting a child's welfare was questioned, but the "effect" of committal was to institutionalise the legitimacy of regimes based on "control". If there was to be any further advance in developing "good child care practice", as one SWSG official believed, this would not come through new or amended regulations.⁷⁴⁶ Instead, to counter "damage to children", it should come through the Secretary of State's guidance to local authorities, and the application of "professional sense" by social workers and others once the Social Work (Scotland) Act, 1968, came into force.⁷⁴⁷

⁷⁴⁶ NRS ED11/698, minute, P. A. Cox, Assistant Secretary, SWSG, 21 September 1967, at SGV-000061832, p.79.

⁷⁴⁷ NRS ED11/698, minute, P. A. Cox, Assistant Secretary, SWSG, 21 September 1967, at SGV-000061832, p.79; see also NRS ED11/731/1, minute, P. A. Cox, Assistant Secretary, SWSG, 28 August 1968, at SGV.001.006.7429.

Section 6: Conclusion

This report was commissioned to assess knowledge of child abuse within Scottish administration from 1945 to 1974. The research draws on retained files on child care at the NRS and other contemporary published material. It focusses on knowledge of abuse held by officials within the SED, the SHD and the SWSG, on knowledge held by the Secretary of State and the Joint Parliamentary Under-Secretary of State, and, finally, on the factors that inhibited the elaboration of a holistic definition of child abuse.

First, Scottish Office officials at divisional level whose duties covered oversight of statutory child care provision regularly received reports and other information from their child care inspectors, the H.M. Inspectors of Schools, and, when applicable, the Health Department's Medical Officer. Through visits to approved schools and children's homes they gathered direct knowledge of the conditions under which children lived. It would appear that the knowledge gained impacted on the advice presented to the Secretary of State and the Joint Parliamentary Under-Secretary of State for revision of the Children's Homes (Scotland) Regulations, 1959, and the Approved School (Scotland) Rules, 1961. Whether it was the diet, recreational facilities, medical attention, or discipline, officials were concerned that "mass congregate care" was essentially antithetical to "modern ideas" of child care. After 1966 they also recognised the "damage" that children might suffer within certain types of care environment.⁷⁴⁸ Yet, before the passage of the Social Work (Scotland) Act, 1968, officials were aware of the limitations of statutory provision towards children in need of care. The workings of the juvenile court system resulted in many older children being committed to approved schools rather than receiving any alternative forms of "treatment". Equally, there were concerns about untrained staff in children's homes and the lack of assessment of risk to children fostered or living at home. To officials the way forward after 1968 was to ensure that local authorities employed qualified social workers whose "professional sense" could counter abuse wherever it arose.

Second, the Secretary of State and Joint Parliamentary Under-Secretary of State were kept informed by officials of significant breaches of the approved school regulations. In 1947 the Secretary of State gave directions on the improvement of the training facilities at Rossie Boys' Approved School, and, in 1950 issued directions on improving the accommodation, amenities and training at Dr Guthrie's Boys School.

⁷⁴⁸ NRS ED11/731/1, minute, para 3, P. A. Cox, Assistant Secretary, SWSG, 28 August 1968.

In 1957 the Joint Parliamentary Under-Secretary of State censured Balgay's headmistress for the use of "irregular punishments" and soon after the Secretary of State censured the headmaster at Wellington Boys' Approved School for the use of the "track" system. The Secretary of State and the Joint Parliamentary Under-Secretary of State were kept fully informed of the breakdown of the management at Balnacraig Girls' Approved School and gave directions that control should be re-asserted. The "disturbances" affecting the care of the girls were judged unacceptable. The directions that ministers gave established precedents. Thus, in late 1961 at Springboig St John's Boys' Approved school officials were aware that the breach of the regulations could threaten another "Carlton" and would require immediate action. The Joint Parliamentary Under-Secretary of State agreed that another approved school should be established to relieve the pressure on Springboig's accommodation. He also agreed other improvements to its regime. Similarly, approved schools that relied for control on the excessive use of corporal punishment or resorted to "irregular" punishments were closely monitored. The removal—or resignation—of at least four headteachers between 1961 and 1966 gives testimony to the view that officials knew ministers would not countenance breach of the regulations that sustained the physical abuse of children. Yet, while the school-leaving age was still 15, there remained a reluctance to press schools that prioritised training of its pupils over education, and a reluctance to counter overcrowding at certain schools when committals increased.

Whilst the detailed response of the Secretary of State towards the 1958 Lochburn Girls' Home disturbance is missing, the same Minister's response to conditions at Wallhouse Children's Home in 1961 indicates condemnation of its "unsatisfactory" provision. The decision provided officials again with a benchmark to assess other children's homes, as could be seen at the Polwarth and Christie Homes between 1965 and 1968. The attitude of the Joint Parliamentary Under-Secretary of State towards the disciplinary regime and the general provision of care at Gryffe Boys' Home in 1967 similarly reflected the view that breach of regulations and the "abuses" it entailed would not be tolerated. Corporal punishment was a key issue to emerge in the mid-1960s but the same Joint Parliamentary Under-Secretary of State refrained from seeking its abolition in either approved schools or children's homes. As long as corporal punishment was within the regulations it was not abuse.

Between 1966 and 1967 the court cases of the wilful assault and neglect of children by their parents or foster parents and the death of a child by her mother, led Bruce Millan, the Joint Parliamentary Under-secretary of State, to agree the issue of a circular to local authorities. It stressed the necessity for additional 'safeguards' in the selection of foster parents, and generally that local authorities should recognise the concept of the "battered child". "Accidents" at home or in foster care were to be

assessed accordingly. The Minister's decision on the circular established a further precedent for officials in their review of deaths of children in care in the period after 1967. By 1973 the Secretary of State could accept a definition of child abuse, albeit one linked to physical harm.

Third, both officials and ministers were aware that even after the establishment of local authority children's departments in 1948, a substantial element of child care was delivered by voluntary organisations. Both religious and secular voluntary organisations formed part of the established provision for children "deprived" of home life, or who had been deemed in need of care and protection. The opposition of some of these organisations towards amendments to the regulations led officials and ministers to be cautious about raising cases of concern. Any concerns were couched in terms of a breach of regulations and in reply to an organisation, the standard of care defined as "unsatisfactory" or "deficient". Although the courts had found individual foster parents guilty of "neglect", if not wilful assault and cruelty, the NRS retained records do not record the precedent of a court judgement in Scotland against the care provided within an institution. Knowledge of abuse certainly existed, but with institutional resistance to "modern ideas" of care and a juvenile court system that accepted "training" above care for older children, an holistic definition was slow to emerge.