

1 Friday, 2nd June 2017

2 (10.00 am)

3 (Proceedings delayed)

4 (10.19 am)

5 PROFESSOR LORRAINE RADFORD (continued)

6 DR CHRISTINE BARTER (continued)

7 LADY SMITH: Good morning. I'm sorry for the delay that
8 there has been this morning. I think you all understand
9 that the internet connection is not behaving; we have no
10 idea why because all the lights are on and it should be.
11 But we are working on it and we have found a way of
12 going ahead. I'm very grateful to Professor Radford and
13 Dr Barter; I understand you are prepared to adapt your
14 not inconsiderable skills so as to work off
15 old-fashioned steam-driven paper.

16 If we can now resume the evidence please.

17 Dr Barter, before I revert to you: Professor Radford,
18 can I just pick up again on something you said
19 yesterday. I think I began to touch on it at the end of
20 your evidence and it was really on the subject of the
21 limitation of data and as I was reflecting on your
22 evidence I was reminded of you also talking about the
23 limitations of the research or of the value of the
24 research to you, for example, because of different
25 methodologies that are used.

1 In an ideal world, if one were starting now and
2 thinking about now and looking to the future, what do
3 you think would work best so far as systems for
4 recording data were concerned? Obviously I'm really
5 thinking of measurement of successes and failures in
6 child protection from abuse. I'm aware I'm throwing
7 this at you and you have not been asked to consider that
8 in your report, but nonetheless I would be interested in
9 your reaction.

10 PROFESSOR RADFORD: A lot of work has been done actually and
11 so we do know much more than we did previously about
12 what data should be recorded. So I think that, you
13 know, we would be able to develop a set of categories in
14 relation to the type of abusive experiences that
15 children and young people have, the location, the
16 perpetrator, so collecting the full range and also
17 asking in a way which is consistent with the way data is
18 collected in other areas so that where you are recording
19 data in agencies, you have some standard definitions and
20 measures that would also match what might be collected
21 in the self-report studies that may be done with
22 children and young people.

23 I'm aware that organisations globally for instance,
24 organisations like Unicef have been looking at how
25 across the world they can improve the method of data

1 collection, both from doing studies within child
2 populations to see what the level of violence is and
3 then to do shorter follow-ups, which are less expensive,
4 to track through change in relation to specific areas
5 and then also in developing services, so child
6 protection services and the police, matching up the
7 types of categories which people record, so that you
8 have got some continuous data that is recorded across
9 certain domains.

10 I am aware that in England the government has
11 started to fund some specialist centres of research
12 expertise and one theme of work that's happening
13 there -- I mean it is fairly limited, but it is a start.
14 They are starting to look at how data is recorded on
15 child sexual abuse and sexual exploitation and so they
16 have started to have those discussions on how you could
17 have standard measures across these different domains.

18 There are also international organisations like the
19 International Society for the Prevention of Cruelty and
20 Neglect of Children, which is an international
21 professional organisation --

22 LADY SMITH: Where is it based?

23 PROFESSOR RADFORD: It is ISPCAN, International Society for
24 the Prevention --

25 LADY SMITH: And where is it based?

1 PROFESSOR RADFORD: It is regionally based so it has offices
2 in America, it has a European office, it has an office
3 in Asia, and also in the global south, so various
4 regional offices.

5 The organisation -- I think the global organisation
6 probably sits in America somewhere but we do have
7 a European network of these organisations and one part
8 of that work -- and I was part of the data improvement
9 group in that organisation. One stream of their work
10 was also looking at how you can improve data and so
11 a lot of work has been done in that data improvement
12 group looking at how data could be developed and
13 a researcher from the University of Oxford and
14 Francesca Mike has been working closely with some
15 members of that ISPCAN data management group and has
16 produced a report from the European society on how you
17 could improve some basic measures and that's publicly
18 available. I would be willing to share that reference
19 with the Inquiry if that's helpful.

20 LADY SMITH: All these things you have touched on I think we
21 would like to come back to you on if we may. That's
22 very helpful. Thank you very much, Professor Radford.

23 Dr Barter, I think we were promised your
24 presentation next. If I could ask you to adapt to doing
25 it without the screen please.

1 Presentation by DR BARTER

2 MR MacAULAY: Yes, can we begin then, Dr Barter, and look at
3 your slides just for the notes. The slides begin at
4 reference INQ.001.001.0864.

5 If you can begin your presentation.

6 DR BARTER: So today I'm going to talk about the prevalence
7 of abuse and neglect of children in care globally and
8 then later on in Scotland. I believe that is the first
9 slide. We will move on to the second slide now, which
10 is addressing the limitations of the research.

11 MR MacAULAY: That as at page 0865.

12 DR BARTER: Professor Radford yesterday outlined the
13 limitations on the work on prevalence in relation to the
14 general population and many of those factors are as
15 salient in looking at abuse, the incidence and
16 prevalence of abuse of young people in care, children
17 and young people in care.

18 One of the issues are that there are different units
19 of analysis so it is very hard to compare across those
20 different units. Units include Inquiry reports, agency
21 case records, consultations with professionals, foster
22 carers, residential workers and children and also
23 surveys.

24 We found very few studies that compare abuse in care
25 with abuse of children living within the families and

1 the general population, and also very few surveys where
2 children or young people are able to self-report their
3 experience of abuse in care.

4 The focus of the work we found tended to be on abuse
5 by care workers and foster care workers. We found less
6 evidence on harm caused by peers, intimate partners and
7 adults targeting vulnerable children outside the care
8 settings.

9 There's very little research that addresses the
10 abuse online of children who are in residential and
11 foster care settings.

12 MR MacAULAY: If I can perhaps route that summary into your
13 report, if we look at your report at INQ.001.001.0358,
14 where you have section 4.1 where you set out the
15 measurement challenges.

16 DR BARTER: Yes.

17 MR MacAULAY: Just to pick up the sentence in the third line
18 where you say that:

19 "A lack of care standards, poor regulation and
20 a lack of any systems of complaint in earlier times
21 would have substantially have constrained child victims
22 from making disclosures. So records that may have
23 survived are highly likely to seriously undercount the
24 prevalence of the problem."

25 DR BARTER: Yes, and I do address that slightly later on in

1 the context of why that under reporting is so prevalent
2 in the UK.

3 MR MacAULAY: Are you moving on to the next slide? And
4 that's at page 0866.

5 DR BARTER: I am. So now we move on to look at the
6 dimensions of abuse in care and Professor Stein, using
7 UK Inquiry reports, identified four different types of
8 abuse that children in care might experience and this
9 provides an important framework when we are looking at
10 the research later on.

11 So the first form he identifies is individual direct
12 abuse and this involves the sexual, physical and
13 emotional abuse and neglect of children in residential
14 and foster care. It is quite similar to abuse that
15 children experience in the family, but the perpetrators
16 in this case would be staff members and foster carers.

17 The next three forms of abuse Stein identifies are
18 distinct for children in care. The first one is
19 programmed or sanctioned abuse. This involves extreme
20 or unfair policies, inhumane acts or abusive techniques,
21 and regimes which are normalised and accepted within the
22 setting and also by external professionals. Examples of
23 this are the pin-down regime in Staffordshire, where
24 extreme forms of physical restraint and also social
25 isolation was used and, also regression therapy in

1 Leicestershire children's home orchestrated by
2 Frank Beck. Frank Beck was later convicted of sexual
3 and physical assaults of over 100 children in his care.
4 Both examples were officially sanctioned regimes used on
5 vulnerable children, often who exhibited challenging
6 behaviours, and in many cases they were not only within
7 the setting accepted as normal but by external
8 professionals, including psychiatrists and
9 psychologists. There were an awful lot of sanctions
10 around what was happening and what was acceptable at the
11 time.

12 LADY SMITH: You mentioned Leicestershire was children's
13 homes and Staffordshire was children's homes as well
14 I think.

15 DR BARTER: They were both residential children's homes.

16 MR MacAULAY: You elaborate upon that in the report on
17 page 0360. We needn't go to it, but I think that's
18 where you set out the detail of that.

19 DR BARTER: Yes.

20 MR MacAULAY: The next heading that you have taken from
21 Stein is "Organised and systematic abuse".

22 DR BARTER: Yes.

23 MR MacAULAY: Can you elaborate on that?

24 DR BARTER: Stein defines that as the abuse over time of
25 children and young people by different members of staff

1 working within the same home or other adults from
2 outside the home.

3 So this covers where abusive adults in position of
4 authority within the residential home can recruit staff
5 who are likely to support that abusive regime. It also
6 includes groups of paedophiles outside the home
7 targeting children in relation to child sexual
8 exploitation and sexual abuse.

9 MR MacAULAY: You give the example at 0361 of Rochdale and
10 Rotherham --

11 DR BARTER: Yes, both children's homes.

12 So the last type of abuse identified is a broader
13 concept of system-outcome abuse and this includes the
14 failure of the care systems, its laws, policies and
15 procedures to effectively protect children from further
16 harm -- and that includes harm from peers, both inside
17 and outside those care settings.

18 It also includes the systematic failure to deal with
19 the harm and adversity that brought children into the
20 care system in the first place and failing to support
21 them in their recovery.

22 MR MacAULAY: I think you also include in that, when you
23 look at the report, a failure to adequately line manage
24 and supervise staff.

25 DR BARTER: Correct, that would be included in

1 system-outcome abuse, yes.

2 MR MacAULAY: Thank you.

3 DR BARTER: Moving on to the next slide.

4 MR MacAULAY: That is 0867.

5 DR BARTER: So now we move on to look at recent global
6 prevalence of abuse of children in care. In this part
7 of the review we have identified ten studies which
8 address this issue. One of the most robust studies was
9 undertaken in the Netherlands. It addressed the
10 prevalence of physical abuse in a number of care
11 settings, including foster care, group homes, secure
12 units and juvenile detention centres.

13 It was able to compare to an earlier study which
14 addressed abuse within the general population, so it
15 importantly provides that context to understand if
16 children are safer in care or if they are safer in the
17 general population. What the research showed was that
18 one in four, or just over a quarter, of young people in
19 care experience physical violence and this was three
20 times higher than children in the general population.

21 In this part of their review we found a systematic
22 review that found lower rates of abuse reported by
23 children and young people in foster care compared to
24 residential care. That seems to be a general trend
25 across all types of research. Typically 4% of those in

1 foster care had an allegation of abuse made against
2 a child and less than 1% were confirmed.

3 We also found that allegations in foster care tended
4 to be higher if that setting was a kinship care
5 placement.

6 MR MacAULAY: So the figures that you give us that are
7 covered in the second bullet point, when you are
8 comparing foster care with residential care with 15.2%
9 of those in foster care as compare to 18.5% in
10 residential care; is that right?

11 DR BARTER: Yes.

12 MR MacAULAY: Secure care is a higher figure, quite
13 significantly higher, 13.5%.

14 DR BARTER: Yes, a higher figure.

15 MR MacAULAY: Yes, thank you. Then the next slide is at
16 0868.

17 DR BARTER: Moving on to look at which children are most
18 vulnerable, this reflects many of the criteria that
19 Professor Radford talked about yesterday, about
20 vulnerability of children within the general population.

21 We know young people in care are more likely to have
22 experienced maltreatment and we also know that children
23 who are maltreated are more likely to experience repeat
24 victimisation.

25 Children and young people in care may also have

1 additional vulnerabilities known to increase the risk of
2 maltreatment, such as disability, challenging behaviour
3 or risk-taking behaviour. It is also more likely that
4 the power imbalance between the perpetrator and the
5 victim in the care context makes it much more difficult
6 for children and young people in care to disclose abuse
7 that is occurring.

8 Also because of children's vulnerability in the care
9 context, some children can be targeted by child abusers
10 and paedophiles from outside the care setting as well as
11 within the care setting.

12 However it is important to remember that research
13 from both America and Europe shows that the majority of
14 children currently in the care system do not report
15 abuse from caregivers in care.

16 Looking at the Netherlands report, this shows that
17 in relation to physical violence, 31% of boys and 18% of
18 girls in care reported some form of physical violence
19 from a care provider. We know that both girls and boys
20 are both at risk of physical and sexual abuse within the
21 care system and that boys are particularly vulnerable to
22 sexual abuse in some care environments, including
23 single-sex residential church care settings.

24 MR MacAULAY: Was that last bullet point linked to the
25 Netherlands research as well?

1 DR BARTER: No, that is based on Inquiry reports.

2 MR MacAULAY: Can we turn to the report at 0362.

3 It is the second paragraph where we can read:

4 "Research in the Netherlands into child sexual abuse
5 perpetrated by members of the Catholic clergy similarly
6 found more males than females reporting this form of
7 victimisation."

8 You go on to say:

9 "This was conducted to inform the work of
10 the commission of inquiry into child abuse --"

11 DR BARTER: That is correct, yes.

12 LADY SMITH: So that is the Catholic Church at that point
13 your slide is referring to because it is that
14 Netherlands study, is it?

15 DR BARTER: The Netherlands, yes.

16 MR MacAULAY: That is covering the period 1949 to 1989?

17 DR BARTER: Correct.

18 MR MacAULAY: Thank you.

19 If you move on to the next slide, which is at 0869.

20 DR BARTER: So addressing the prevalence of abuse in care in
21 the UK, 14 studies were included in this aspect of the
22 review. We found that on average each year in the UK
23 there are allegations of abuse towards 10% to 12% of
24 children in residential children's homes and 3% to 4% of
25 children in foster care. However over three quarters of

1 these allegations cannot be proved or disproved due to
2 lack of evidence.

3 We found that Scotland had lower rates of
4 allegations and confirmed cases of child abuse than
5 England and Wales. For example, in Scotland we found
6 that on average allegations of abuse towards children in
7 residential care were 2%; in England the figure is 13%
8 to 15%. In foster care for Scotland the rate is 1% and
9 in England it is 3% to 4%.

10 MR MacAULAY: Looking at residential care there is quite
11 a difference --

12 DR BARTER: It is a very large difference.

13 MR MacAULAY: -- in the average between Scotland and
14 England.

15 DR BARTER: Yes.

16 MR MacAULAY: Very well. Then the next slide is --

17 LADY SMITH: Sorry, what period was that covering?

18 DR BARTER: That's recent prevalence.

19 LADY SMITH: That is quite a staggering difference --

20 DR BARTER: It is a large difference.

21 LADY SMITH: -- in allegations.

22 DR BARTER: Of being able to report allegations.

23 LADY SMITH: Yes, of course.

24 MR MacAULAY: The next slide then at 0870.

25 DR BARTER: Here we look at children and young people's

1 experiences of child sexual exploitation in the care
2 system. We found six studies which addressed this issue
3 but none of the studies were able to look at prevalence
4 of child sexual abuse in the care system.

5 The studies we were able to use were small
6 qualitative studies and professional estimates of child
7 sexual abuse within the care settings and also case file
8 analysis. Drawing together evidence from all these
9 different sources, it is estimated that 8% of children
10 in care in Scotland were subject to known or confirmed
11 child sexual exploitation and that is in the last year.
12 But 21% were likely to have been exposed to suspected or
13 confirmed sexual exploitation in the same period.

14 MR MacAULAY: Thank you. The next slide is 0871.

15 DR BARTER: This addresses the historic global prevalence of
16 abuse in care. We found no research on abuse in care
17 that covered the entire period between 1930 and 2014.

18 Much of the research on institutional abuse emerged
19 in the 1990s but it is still relatively sparse. As
20 a result we can provide no robust estimates on the
21 historical prevalence of abuse in care.

22 However, survivors' accounts describe the nature and
23 often widespread experiences of abuse in care and they
24 are particularly important in both acknowledging their
25 experiences and the impact of this abuse in both

1 childhood and adulthood.

2 MR MacAULAY: Then you move on to prevalence in the UK, 1930
3 to 2014 at 0872.

4 DR BARTER: Yes. So previous inquiries have covered
5 survivors' and staff accounts of physical, emotional and
6 sexual abuse and neglect of children in a range of care
7 establishments and residential schools.

8 For example in the Quarriers residential homes in
9 1930 to 1970, there was large scale abuse of children
10 from house parents, former residents and people in the
11 community who abused children on day trips and holidays.
12 Most of the abusers were adult males.

13 However, due to a lack of or loss of records
14 concerning both children and young people's allegations
15 and concerns of workers we can make no substantial or
16 robust estimates.

17 MR MacAULAY: You make reference to a number of
18 establishments such as Kerelaw, Quarriers, Larchgrove
19 and so on. I think you discuss these reports because
20 these were reports of inquiries --

21 DR BARTER: They are.

22 MR MacAULAY: -- in your report from 0382 to 0384.

23 DR BARTER: We do, yes.

24 So the physical isolation and remoteness of some of
25 the residential care homes, in addition to poor training

1 and inadequate supervision, combined to make it very
2 difficult for abuse allegations to come to light. Lack
3 of care standards, poor regulation, lack of any systems
4 of complaint would make it very difficult for children
5 and young people to disclose and for those disclosures
6 to go to the right authorities.

7 As previous reviews have also concluded the further
8 back in time one goes the more difficult it is to find
9 any documentation of records or complaints that might
10 have been made by children or young people.

11 Any monitoring of incidence data and official
12 records on abuse in care is relatively recent. However,
13 sustained policy changes to better address the above
14 institutional barriers that sustain abuse have emerged
15 over the past two decades.

16 MR MacAULAY: I think you end up on a slide at 0873 headed
17 "Knowledge gaps".

18 DR BARTER: Yes. So the knowledge gaps that we have
19 identified from our review is a need for research, and
20 particularly research on Scotland.

21 We need rigorous comparisons across three different
22 levels: reports to agencies of abuse; community survey
23 of child and parent self-report; and a survey of
24 children in foster and residential care settings. We
25 also need a retrospective self-report survey for adults

1 previously in care.

2 MR MacAULAY: Perhaps I can go back to the report itself and
3 turn to page 0395 and possibly bring Professor Radford
4 back in because this is where you set out your
5 conclusions following upon your research review.

6 I think you have both mentioned, actually, that what
7 you say is that there are these gaps in knowledge and
8 you say that there are significant gaps in knowledge
9 that remain with regard to the extent of abuse of
10 children in the care system globally and in Scotland.
11 Can you just develop that for us, Professor Radford, and
12 indeed perhaps indicate whether or not these gaps can be
13 plugged.

14 PROFESSOR RADFORD: Yes, well, the gaps are as Christine
15 stated because it was not possible for children to
16 report because of the nature of the abuse, some of the
17 abuse being sanctioned and not being recognised. If
18 there was an abusive regime, records weren't kept and
19 records that have been kept don't seem to exist any
20 longer. Surprisingly, I had thought that, looking at
21 the Inquiry reports that have been made, very few of
22 these inquiries globally and including in Scotland have
23 kept or have tried to estimate the extent of the abuse
24 usually because the records haven't been there.

25 So that's the biggest gap in knowledge that we have;

1 that nobody seems to have made any effort anywhere
2 really so far to try to get a robust estimate on how
3 much abuse might have happened historically. There are
4 very few studies really of historic abuse of children in
5 the care system. The studies looking at the current
6 levels of abuse in the care system are relatively few
7 still but we do know how to gather this data.

8 MR MacAULAY: If the records aren't there, how does one get
9 the data?

10 PROFESSOR RADFORD: You could get some data from doing
11 a retrospective survey of adults who are still alive and
12 document that. So some of the things that some
13 inquiries have done globally, by having survivor forums
14 and allowing survivors to give accounts of what happened
15 to them, would be one step in the right direction and
16 I'm aware that that has been done by some inquiries.

17 The other possibility is to have a survey of older
18 adults in the population which would be linked to
19 current methods of crime surveying. Crime surveys
20 routinely collect information on people's experience of
21 violence in relationships. It would be possible if
22 older adults were surveyed to ask them about experiences
23 of abuse in the past in care.

24 MR MacAULAY: How would you do the survey? What are the
25 mechanics?

1 PROFESSOR RADFORD: The mechanics of it would be
2 challenging. My experience of doing these household
3 surveys to look at the prevalence of child abuse would
4 be that we had expected the major ethical concern that
5 we would be faced with would be parents' fears about
6 somebody coming to their house and wanting to ask them
7 about child abuse and parents thinking that maybe we
8 were trying to target their children for inappropriate
9 reasons.

10 In actual fact that was not the case and the biggest
11 fierce that we encountered were researches, when they
12 knocked on the doors of older people who feel vulnerable
13 and frightened, and so to involve older people in
14 a survey of that kind would present some huge logistical
15 and ethical challenges, but I don't think they are
16 insurmountable.

17 When we started to do the research in the UK on
18 children's experiences of violence it was thought that
19 you would not be able to ask parents these things and we
20 did consult with international experts who had
21 experience with working with this particular group and
22 we also consulted with young people and their families
23 and also young survivors. So we gathered advice before
24 we attempted it and then we tested it out before we did
25 it.

1 Researchers are used to testing out their
2 methodologies. Although it sounds like a very risky
3 strategy it is something that could be tested and
4 piloted in a fairly reasonable way. So I think that
5 that data retrospectively would give us, for the first
6 time, some information on adults' experiences of abuse
7 in the care system.

8 MR MacAULAY: Historically, looking back?

9 PROFESSOR RADFORD: Yes.

10 MR MacAULAY: So you would be looking with different cohorts
11 of different age groups in that kind of analysis?

12 PROFESSOR RADFORD: You would be yes.

13 MR MacAULAY: From the very elderly down to the middle-aged?

14 PROFESSOR RADFORD: Yes, and you might have to make some
15 decision about again the ethics of doing that at certain
16 ages where people may have health problems and things.
17 It is highly likely that somebody that's experienced
18 abuse, the consequences can be lifelong and also elderly
19 people may have health problems, so there would be
20 ethical challenges, but again I don't think it is
21 insurmountable.

22 I think the other side of that is we should not be
23 overprotectionist with survivors and we should allow
24 survivors to say whether or not they would like that
25 opportunity to express their experiences and to have

1 their experiences documented so that we know how many
2 people had experienced abuse.

3 Again, that was the response that we had with the
4 NSPCC research on children. It was felt you can't ask
5 children, this would be too upsetting, but actually the
6 young people that we spoke to who were survivors of
7 abuse said, no, actually, we do want to tell people
8 about this and we want people to understand because
9 otherwise you are in a situation where it is
10 policymakers, governments and also people in services
11 and researchers who decide what the experience might be
12 rather than hearing it directly from the survivors
13 themselves. So, you know, I just feel that to respect
14 people's rights -- they have a voice.

15 LADY SMITH: Some of what you say seems to capture
16 a challenge for any organisation in capturing what some
17 call its corporate memory. It is very easy to persuade
18 oneself that we all know this important thing has been
19 identified or has happened, we don't need to write it
20 down, we don't need to make records of it, we can deal
21 with it, failing to allow for the fact that they know
22 about it, they will keep their memory of it, but they
23 are not going to be there forever and another generation
24 will come, and another generation will come, and they
25 may make exactly the same mistakes again that led to

1 that previous generation learning about it and dealing
2 with it. But there is a duty to record, perhaps
3 generally, if you want, whatever your organisation is,
4 whether it is society or a business or a public agency
5 of some sort, if you want it to flourish you have to
6 capture these things. Is that really what you are
7 saying?

8 PROFESSOR RADFORD: Yes, I think I'm saying that. I think
9 that society owes a debt to those survivors who have
10 been harmed in the past to hear what they say about
11 those experiences and for us not to assume that we know.
12 But also, moving forward, for children currently in the
13 care system, there is a responsibility for us to ensure
14 that they are able to say confidentially, you know, that
15 this may still be happening to them, so that we don't
16 assume that we have now sewn up all the loopholes
17 because it is quite clear that's what happens.

18 That is what happened when people started to think
19 about sexual exploitation and realised, my goodness,
20 children who are in the care system are highly
21 vulnerable to sexual exploitation, but are being
22 labelled as children who are having inappropriate
23 relationships and can't be controlled because they are
24 so damaged.

25 We need to take responsibility for protecting these

1 children and we can't do that unless we actually
2 understand the nature of the problem. So it is basic
3 epidemiology: you can't actually tackle a problem unless
4 you understand it and to understand it you have to look
5 at those affected.

6 MR MacAULAY: Looking at the elderly, the older community,
7 the older groups, how do you invite an older person to
8 engage with the sort of survey that you talk about?

9 PROFESSOR RADFORD: Well, yes, I mean when we set this up
10 with the NSPCC we initially did try to publicise the
11 fact that this was happening and raise awareness about
12 it. I think because there are inquiries that are
13 happening that survivors may well be aware of that.
14 I think the challenge obviously with older people is
15 that the nature of abuse is that a lot of people may
16 carry the harm with them for their lives but may not
17 talk about it or not have told people about it. Some
18 people may not want to talk about it and that's fine,
19 that's their right too, but some people may want to.

20 You have a challenge if somebody has lived for
21 50 years with an experience from their childhood that
22 telling about it will be a painful experience for them.
23 So, yes, you have got to be able to confront that
24 challenge and to give them appropriate help and support.

25 I mean it is not something -- you could not just go

1 off and ask without actually thinking very carefully
2 about, what are we going to do about the consequences?
3 So if we find out that you know there is a high
4 proportion of ex-care leavers in the adult elderly
5 population who would actually benefit from having some
6 therapeutic support now, is that therapeutic support
7 going to be available for them? And there could be
8 benefits too, you know, that providing that therapeutic
9 support may well have a consequence for their general
10 health and wellbeing and maybe for governments it could
11 be a persuasive argument to say that we would be saving
12 on other health care costs for that population.

13 But I don't think that is the most important thing.
14 The most important thing is if you are asking and you
15 are creating -- making people aware of their feelings so
16 that they feel that they would like some additional
17 support, that that support is there for them.

18 MR MacAULAY: Looking at the sort of research that -- you
19 are then talking about timescales, I mean what sort
20 of -- how long would that take?

21 PROFESSOR RADFORD: Well, actually, I mean the study that we
22 did for the NSPCC, it did have a long set-up because
23 there was -- we did a lot of consultation beforehand so
24 it did have a year's feed-in before it was set up but
25 I actually think there is -- because a lot of this work

1 has been done and the ethical issues of doing these
2 types of surveys has moved on since then, that that
3 lead-in need not be quite so long. There would have to
4 be a lead-in and a testing period. So I would say you
5 probably need a minimum of six months to get that
6 lead-in done and some testing before you started. To
7 gather the actual survey data took less than one year
8 from 6,196 applicants all the way across the UK.

9 So I mean that gives you an idea of how long that
10 takes. But then you have to analyse it. So you know
11 that takes probably another year on top.

12 MR MacAULAY: It would involve, would it, a team of
13 researchers to do this sort of work?

14 PROFESSOR RADFORD: It would require a team of researchers
15 working with an experienced social research company
16 trained to collect the interviews, to get a population
17 representative sample. Or it could be a large team of
18 researchers could do this type of thing if they were
19 targeting specific areas and were able to manage the
20 survey work themselves.

21 MR MacAULAY: Has this been done anywhere else?

22 PROFESSOR RADFORD: On a household survey basis, not that
23 I'm aware of, no. Not for the historic abuse. For
24 child abuse, yes.

25 MR MacAULAY: In past-year type of --

1 PROFESSOR RADFORD: Yes. Those surveys have been done so we
2 know a lot about how to do that. There would only be
3 some minor amendments to that basic survey methodology
4 to incorporate children's experiences in the care
5 system. So you could ask the same questions of children
6 in care that you ask children in the community. In
7 actual fact, the UK study for the NSPCC did ask people
8 whether they had a care history, but the NSPCC never
9 analysed that data.

10 MR MacAULAY: But the NSPCC study was one you engaged in
11 yourself, Professor Radford?

12 PROFESSOR RADFORD: Yes.

13 MR MacAULAY: Perhaps you could tell us a little more about
14 that because you have mentioned that on more than one
15 occasion. Could you fill us in as to what it was about
16 and how long it took and so on?

17 PROFESSOR RADFORD: That was a long feed-in because the
18 NSPCC, as the leader in that work, has a specific legal
19 status in England as being the only children's charity
20 which has child protection responsibilities and powers.
21 So they have powers to actually initiate care orders and
22 so forth. So there was concern about what the legal
23 implications were for the NSPCC organising a survey
24 which went into people's homes, asked them whether or
25 not there were levels of violence, and then found out

1 there were and what that would mean.

2 So, the reason that it took a year to set up was
3 partly because of those legal concerns and also looking
4 at the ethical side of it and making sure that -- they
5 were very concerned that it would be upsetting for
6 children and also we wanted to be sure that it was
7 tested before we did it, so it was -- so we set up
8 an international group of expert advisers, so
9 researchers from across the world, who had already done
10 these types of surveys. We then set up a group of young
11 people who were survivors of abuse that we had contacted
12 through our NSPCC therapeutic services and we also had
13 parents of child survivors.

14 So we consulted with those groups on the ethics, how
15 we were going to go about the survey, what types of
16 questions were going to be acceptable for them. So they
17 tested out all of the methods before we tried them.

18 When we went through all of that process, we also
19 went out and tested it with a sample of 400
20 participants.

21 MR MacAULAY: A pilot study?

22 PROFESSOR RADFORD: Yes, with 400 before we then went live
23 with it and tried it out. We set it up so that we had
24 advice on, you know, notifying the police and other
25 agencies in the area that this was happening if anxious

1 parents phoned up. We also set up a telephone helpline
2 to say that -- so that when interviewers were in the
3 area, the process was that first they went to the
4 households that were identified from the postcode
5 address file. Because you can't tell from the postcode
6 address file whether or not they have got a child under
7 the age of -- a children and young people, it was, under
8 the age of 24 living in the household, then you actually
9 have to ask them. So there were some eligibility that
10 had to be negotiated on the doorstep.

11 So before that happened we actually tested out two
12 different types of letters. One was a letter that was
13 from the research company saying we are doing research
14 in this area on the subject of children's experiences of
15 safety and victimisation in the family.

16 We gave examples of the types of things that we
17 wanted to ask them about. So we sent the advance letter
18 to the houses. We tested out two types. One which was
19 headed by the research organisation LOGAL(?) and the
20 other one that was headed by the NSPCC because the
21 concern from the NSPCC was that families would think
22 that if the NSPCC was asking them then they were here to
23 snatch their children and it would create a lot of fear.

24 We actually found that sending the letter with
25 a NSPCC heading on it meant that lot of families said,

1 we really want to help because we think this is a very
2 important issue. So what we expected didn't happen.

3 So we set it up very carefully in those ways and the
4 advance letter said the interviewer would come back in
5 the next two or three days to ask whether they would
6 like to take part in an interview and whether they were
7 eligible for interview.

8 Then when we went back they would then ask for
9 permission and the families' participation in the
10 research because in most cases in families it is the
11 adults who are the householders and you need permission
12 from the householder to enter the house.

13 So for all the people that were living with their
14 parents you had to have the parent's permission to gain
15 entry as well as permission from the child to take part
16 and for children under a certain age you obviously need
17 parental consent as well. So parents were informed
18 about the nature of the questions that we would ask
19 their children.

20 MR MacAULAY: Can you just give us an understanding of what
21 these questions were?

22 PROFESSOR RADFORD: They were a range of questions. It was
23 based on a global standardised measure. So part of our
24 preparation work with the experts was to look at what
25 are the best measures that we have for children to

1 self-report their experiences of violence. So we
2 researched the different measures to see which were the
3 ones that had been tested the most for accuracy and then
4 compared with real cases of child abuse, for instance,
5 and so the two best measures that we considered was
6 the -- something called the ICAST measure and the
7 measure that we used for the NSPCC was the Juvenile
8 Victimization Questionnaire or the JVQ.

9 So we used that. We then tested it and adapted it
10 for use in the UK because it was using some American
11 language. We also did something called cognitive
12 testing with children and young people to make sure that
13 they understood the question in the same way that they
14 might do in an American context.

15 For instance, one of the questions was asking about
16 experiences of physical violence and they said:

17 "Has a parent ever hit you with their bare hand or
18 used an implement like a switch?"

19 I don't know what they mean by a switch, but in
20 America it is a very common term used in rural commutes
21 where a parent uses a cane to discipline -- what they
22 call discipline -- and physically harm a child. So we
23 had to weed out terms like that and use terms that had
24 meaning for children.

25 So we tested things like that. So we used -- so the

1 JVQ asks about children's experiences of violence. It
2 directly asks them about their experiences of violence
3 in the community, from their peers, violence from
4 a caregiver, violence from other adults in all settings.

5 Then it has a module that asks them about sexual
6 violence. A module on exposure to domestic violence.
7 A module on community violence. So some of the
8 questions we lost -- so they were asking questions like:

9 "Have you ever seen anybody shot with a gun?"

10 Which in the UK is pretty rare, so we lost questions
11 like that.

12 So it asks about a whole range of experiences,
13 including online abuse.

14 MR MacAULAY: If you take the option of whether a child has
15 experienced violence from a caregiver, which would
16 include a parent --

17 PROFESSOR RADFORD: Yes.

18 MR MacAULAY: -- the parent that was giving consent would
19 know that was one of the questions that was going to be
20 asked of his or her child?

21 PROFESSOR RADFORD: That is correct, but not all caregivers
22 are the parent that reports.

23 We interviewed the parents and the children, so the
24 parents of the children aged 11 to 17 were asked
25 questions on their family life. So basically things

1 like how much they earned, so their income level, and
2 whether there were any health problems in the family
3 because the survey was set up so that we could get
4 a pattern of the demographic factors and build in
5 questions on basic vulnerabilities that we know from the
6 research literature might contribute to what makes
7 children vulnerable to abuse and we wanted to be able to
8 investigate those in our analysis.

9 Actually, if you ask children, what does your dad
10 do -- my children were very disinterested in what either
11 I did or what my partner did and they said, I don't
12 know, whatever they do, it is boring. So they don't
13 know things like level of income, so it is very very
14 difficult then to classify that and say the child of
15 a professional couple is likely to experience abuse
16 because you don't know whether they are professional or
17 not.

18 MR MacAULAY: I see.

19 I don't want you to blow your own trumpet, but was
20 this seen as a useful piece of research?

21 PROFESSOR RADFORD: I think it was pioneering in the UK and
22 has been very useful because it is the research that we
23 still have. Obviously, the concern is that in a lot of
24 countries we developed surveys and pushed forward how we
25 could develop this information from children but what

1 you need to do is you need to be able to actually set
2 that up so you can gather information on a regular
3 basis. So what they could be doing with that data is
4 now building some of those questions into the crime
5 survey that we have with children so that they ask
6 children some of those questions routinely at government
7 level so we can see, are the trends of child abuse going
8 up or going down, because how are we ever going to be
9 able to say our policies are making a difference for
10 children until we can answer that question.

11 Globally, the NSPCC study did try to capture some of
12 that data but the only other place that we know where
13 they have tried to do that is in America, and possibly
14 in the Netherlands, they have started to try to track
15 those trends to look at whether child abuse is going up
16 and going down in the population?

17 MR MacAULAY: Looking at the Netherlands, is that being
18 sponsored by the state?

19 PROFESSOR RADFORD: I do not know the answer to that, I'm
20 trying to find out how much it all cost in the
21 Netherlands and where they got the money from --

22 MR MacAULAY: I have been looking --

23 PROFESSOR RADFORD: In Germany, the state is sponsoring it.
24 They have started a from-birth study of cohorts of all
25 the populations of babies that used paediatric services,

1 most German babies do, and we managed to persuade the
2 German government to include these questions on child
3 abuse and domestic violence in the survey. They thought
4 that German families would never ever answer that but
5 when they piloted it, the things that were most
6 offensive to German families was being asked about their
7 income, not about child abuse.

8 MR MacAULAY: But the major gap that you have identified
9 from your research, insofar as Scotland, is concerned,
10 you have given us some ideas as to how that gap could be
11 dealt with, but it seems to be quite a major piece of
12 work from what you have said; is that correct? Would it
13 really require to be sponsored by the State or how would
14 you see it being developed?

15 PROFESSOR RADFORD: I really do feel that the experience of
16 organisations like Unicef has been that it has been a
17 state responsibility to gather this information and to
18 track it if they are serious about improving children's
19 rights and that has been the global experience in the
20 violence against children studies that they have been
21 organising in countries like Tanzania and Kenya and
22 Cambodia, across about 20 different low-resource
23 settings now, where they have set up these surveys,
24 where they have had government support for the survey,
25 they have invested the money and the government has

1 worked closely in terms of what data is collected and
2 how that data then can be used properly.

3 Because what we have done in high-income countries
4 is that they have left it to researchers who care about
5 these issues to do these surveys and they are a one-off
6 and they are wasted.

7 So it is actually -- I think it is not only letting
8 down the children who have the courage to tell us about
9 their experience but is also a dreadful waste of
10 resources because you have a snapshot survey which is
11 then out of date, which you don't build on. We need to
12 start building on the knowledge and improving it and
13 using these surveys so they don't just count the numbers
14 of children but they tell us about what are the risk
15 factors, what are the children who don't experience
16 abuse, what are the children who have happy childhoods
17 among these populations, are the trends changing, are
18 these children using services more than they did last
19 time we asked. So that type of information would be
20 incredibly useful for informing policy.

21 MR MacAULAY: Thank you both, Professor Radford and
22 Dr Barter.

23 LADY SMITH: Thank you. Any questions from the floor?

24 MR MacAULAY: No written questions have been sent and I have
25 not been asked to ask any questions orally -- I think my

1 learned friend Mr Gale might.

2 MR GALE: My Lady, I wonder if I could ask just one question
3 of Dr Barter. It will only take a moment; it is
4 something that occurred to me as she was giving her
5 evidence and I was looking at her slide. It will only
6 be a moment.

7 LADY SMITH: Please go ahead Mr Gale, thank you.

8 Questions from MR GALE

9 MR GALE: Thank you my, Lady.

10 Dr Barter, just to introduce my position,
11 I represent those who were abused at Quarrier's Homes,
12 so you know the context of where I'm asking you
13 questions.

14 I would just like some clarification, if I may, on
15 the second of the categories of abuse identified by
16 Stein that you referred to -- and that's the category of
17 programmed or sanctioned abuse -- in your second slide.

18 Two really very simple things doctor -- at least
19 I am sure they are to you and they may not be to me.

20 Sanctioned abuse. There seems to be a difference
21 between programmed or sanctioned abuse. Would
22 sanctioned abuse, for example, include abuse which was
23 tolerated by the management of the organisation but with
24 their knowledge?

25 DR BARTER: Yes, it would.

1 MR GALE: That's my first question.

2 Just a second question, in your report -- I'm afraid
3 I don't have the specific page reference, but it is
4 section 4.2, where you discuss the Stein categories and
5 in relation to this category, you say this:

6 "Programmed or sanctioned abuse involves extreme or
7 unfair policies or inhumane or abusive techniques and
8 regimes that are normalised ..."

9 DR BARTER: Yes.

10 MR GALE: The characterisation of policies or techniques or
11 regimes as being extreme, unfair, inhumane or abusive,
12 is that done as against contemporaneous standards or is
13 that done with the benefit of hindsight or is it
14 possibly a combination of both?

15 DR BARTER: I think in the context of the time it took place
16 it would have been seen as abusive within that context.

17 MR GALE: At that time?

18 DR BARTER: Yes.

19 MR GALE: Thank you very much, Dr Barter.

20 Thank you very much, my Lady. I'm grateful for
21 that.

22 LADY SMITH: Thank you, Mr Gale.

23 Professor Radford, Dr Barter, thank you again for
24 all your help thus far. As I say, we may come back to
25 you, Professor Radford, on that matter we discussed at

1 the beginning of today, but you have provided us with
2 a wealth of valuable material and I'm grateful to you
3 for having distilled it into such accessible
4 presentations.

5 My apologies again for this morning not being an
6 "em-PoweredPoint" presentation, but thank you for
7 coping.

8 (The witnesses withdrew)

9 Mr MacAulay.

10 MR MacAULAY: My Lady, it might be useful to have the
11 adjournment now so we can get an update on the technical
12 problems.

13 LADY SMITH: Yes, I am hoping with the arrival of the cohort
14 to my left we may have some news one way or the other.
15 It is quite close to when we would have a morning break
16 anyway.

17 We will break now. Could we try and resume again at
18 11.30 am. If it needs to be later than that because of
19 the technological problems we will let you know, but aim
20 for 11.30 am unless you hear otherwise, please.

21 (11.15 am)

22 (A short break)

23 (11.34 am)

24 LADY SMITH: Mr MacAulay.

25 MR MacAULAY: Yes, my Lady. The next witness I would like

1 to call is Dr Susan Elsley.

2 DR SUSAN ELSLEY (affirmed)

3 Questions from MR MacAULAY

4 LADY SMITH: Thank you, do sit down Dr Elsley.

5 Mr MacAulay, when you are ready.

6 MR MacAULAY: Dr Elsley, are you Susan Elsley?

7 A. Yes.

8 Q. How would you describe the position that you hold at
9 present?

10 A. I'm an independent policy analyst and researcher, and my
11 focus is on children and young people and their rights
12 and wellbeing, and the services that support them.

13 Q. Perhaps we can look at your CV and this is at
14 INQ.001.001.0891. I think it should appear on the
15 screen in front of you but in any event I think you have
16 a copy of it.

17 At the very beginning of your CV, you tell us that
18 you are an independent writer, policy analyst and
19 researcher with a focus on children and young people and
20 the services that support them.

21 A. Yes.

22 Q. You are in fact the director of your own independent
23 research and policy agency?

24 A. That is right.

25 Q. You tell us in the next bit that you work

1 collaboratively with national and local government and
2 other organisations --

3 A. Yes.

4 Q. -- including the Centre for Excellence for Looked-after
5 Children in Scotland, CELCIS.

6 A. Yes.

7 Q. Looking at your areas of expertise, can you tell us
8 a little bit about that?

9 A. My main focus, as I mentioned, is children and young
10 people's rights and wellbeing. I have undertaken work
11 on that at a Scottish, UK and international level.
12 I have also done work around looked-after children and
13 around the policy relating to that in a Scottish and
14 international context. I have also done work around
15 rights-based approaches to children's services.

16 My longstanding background is doing work around
17 children and young people's participation in policy and
18 services and I have done a number of series of basis of
19 work around advocacy for children and young people and
20 mentoring for looked-after children and young people
21 over the last few years.

22 Q. You identify your academic qualifications as we move
23 down the page. Your first degree was from the
24 University of St Andrews and that was actually in
25 language and English literature, but you have moved from

1 that into a sociological position and in particular you
2 had a PhD in sociology from the University of Edinburgh
3 in 2009?

4 A. Yes.

5 Q. Then we look at your professional posts and if we start
6 from the bottom and move up, can we see that, for
7 example, in 1994 to 1999 you were the Assistant Director
8 Children's Services of Save the Children (UK) in
9 Scotland.

10 A. Yes, I worked for Save the Children (UK) in Scotland.

11 Q. From 1995 to 2005, head of policy and research Save the
12 Children; is that right?

13 A. Yes.

14 Q. You also had some lecturing commitments thereafter.

15 A. Yes.

16 Q. And in 2011/2012 you say you were a senior research
17 fellow at the Centre for Research and Families in
18 Relationships at the University of Edinburgh?

19 A. Yes.

20 Q. And then we come to your present post.

21 If we go on to the next page then, 0892. If we can
22 just identify the first bullet point.

23 A. Yes.

24 Q. Please tell me a little bit about that where you tell us
25 that you were the writer of the Scottish Government's

1 Part 1 Guidance for Children and Young People (Scotland)
2 Act (2014)?

3 A. I was commissioned to write the guidance for part 1 of
4 the Children and Young People (Scotland) Act last year.
5 I did that work, yes.

6 Q. In the third bullet point I think there you are
7 identifying a contribution you made to the Shaw
8 report --

9 A. Yes.

10 Q. -- into historical abuse and a systematic review into
11 residential schools and children's homes in Scotland?

12 A. Yes, that is right.

13 Q. The section you did on that, "Societal attitudes to
14 children and social policy changes, 1950 to 1995", to
15 some extent was similar to what you were asked to do for
16 this Inquiry --

17 A. Yes.

18 Q. -- in a narrower time frame?

19 A. It was a narrower time frame but it was in the same area
20 of looking at societal attitudes, yes.

21 Q. Moving down the page, in the seventh or eight bullet
22 point, you say that you were the author of the first
23 Scottish-wide review of advocacy for children in
24 Scotland for the Scottish Government?

25 A. Yes.

1 Q. You give us some other information as to what your
2 involvement was in particular with regard to CELCIS and
3 the Scottish Government.

4 A. Yes.

5 Q. Towards the bottom of the page you have provided some
6 selected committee membership.

7 A. Yes.

8 Q. For example, you were the vice chairperson of the
9 Together Scotland Alliance for Children's Rights?

10 A. That is right.

11 Q. Do you still hold that position?

12 A. I do.

13 Q. Moving over to the next page, 0893, again you have
14 provided us with a list of selected publications.

15 A. Yes.

16 Q. Again, very much focusing on work that you have produced
17 in relation to young people and young people's views and
18 so on.

19 A. Yes.

20 Q. Now, insofar as this Inquiry is concerned, Dr Elsley,
21 were you asked to look at societal attitudes to children
22 during the period 1900 to 2015?

23 A. Yes, that is right.

24 Q. In that connection did you prepare a report?

25 A. I did.

1 Q. If we could perhaps just identify that and that's
2 INQ.001.001.0737. I think we have that on the screen.
3 You have prepared a PowerPoint presentation and I will
4 come to that in a moment but can you just give us
5 a broad overview as to what you were asked to do for
6 this Inquiry?

7 A. The aim of the review was to consider societal attitudes
8 to children in Scotland in the period from 1900 to 2015
9 and to consider how these attitudes did or could have
10 influenced everyday understandings as well as child care
11 and welfare practices relating to children and young
12 people.

13 Q. Were you asked, I think as other experts have been
14 asked, to look at particular periods in time?

15 A. Yes.

16 Q. I think in the first instance you were looking from
17 about 1900 to 1948?

18 A. Yes.

19 Q. And then from 1948 to 1968?

20 A. Yes.

21 Q. Then 1968 to 1995 and then from 1995 to 2015?

22 A. That is right.

23 Q. Societal attitudes to children, can you just tell us
24 a little bit about that? You give us some explanation
25 for that in your report at 0743 but can you elaborate

1 upon that? What do you mean by that?

2 A. Broadly I used the idea that social attitudes are the
3 contributions of members of the public, professionals,
4 institutions and organisations to attitudes prevalent
5 during the period. Attitudes are quite a difficult
6 thing to capture because they can cover a vast range of
7 different areas and also attitudes change over time.

8 Q. Where are the challenges for you for this type of work?

9 A. The challenges were broadly that, first of all, it is
10 a very long period of time historically, so the
11 challenge is in actually capturing key trends and
12 developments during that period which have meaning from
13 one time period to another and also to do that in a way
14 which gives a thread of ideas which are helpful to the
15 Inquiry.

16 Also a very significant challenge in undertaking
17 this review is in actual fact the paucity of evidence
18 that there is on societal attitudes during the period
19 and many of the sources that are available don't
20 necessarily focus on attitudes and you have to
21 interrogate and look at different themes across a wide
22 variety of literature.

23 Q. Just on that topic, on the sources you had regard to,
24 what were these sources?

25 A. I looked at a number of secondary sources, so that's

1 work which is already done, analysis and reflection,
2 rather than going to first-hand accounts and I drew on
3 literature from history of childhood and children's
4 lives where that was available. I looked at reflective
5 literature on child welfare and child care practices
6 during the period.

7 I looked at a number of documents which were of
8 their time and also drew more widely on reports and
9 evidence from children and young people themselves --
10 although there is not a great deal of that for most of
11 the period of the review.

12 Q. I think we see that when we look at the report.

13 A. Yes.

14 Q. More recently, the child has a voice, but not so much so
15 in the past.

16 A. Yes, I think it would be fair to say that certainly over
17 the last 15 or so years there has been a big increase in
18 the amount of research and consultation and evidence
19 gathering there has been from the views of children and
20 young people and their experiences.

21 Q. Against that background, perhaps we can look at your
22 PowerPoint presentation.

23 The reference number is INQ.001.001.0895 and this is
24 something that we can put on the screen behind you; I do
25 not think you will have it on the screen in front of

1 you.

2 A. I do.

3 Q. Very well. That's helpful and I think my learned
4 friends who can't see the screen have a hard copy of the
5 PowerPoint.

6 Can we just take you through -- we see the title of
7 the PowerPoint presentation on the screen, "Review of
8 societal attitudes to children". If we move to the next
9 slide, 0896.

10 A. Yes, that is really just reiterating what I have said
11 already, which is that the aim of the review was to
12 consider societal attitudes to children in Scotland from
13 1900 to 2015.

14 Q. So moving on to the next slide. Thank you.

15 A. Just for clarity, these are just some of the definitions
16 and terms that I have used in my report. "Child" I have
17 used to be a person under the age of 18 years of age in
18 line with the United Nations Convention on the Rights of
19 the Child. Especially in the latter part of the report
20 I refer to "children and young people" in line with
21 common practice amongst organisations and government.

22 I use the terms "voice" and "participation" amongst
23 others to describe ways how children make their views
24 known and I use "agency" in the report to describe the
25 capacity of individuals to act independently and to make

1 choices -- in this case, children.

2 Q. Moving on to the next slide at 0898.

3 A. Then, the term "wellbeing", which is very much
4 a contemporary term used by governments and other
5 agencies, and this is the Scottish Government
6 definition:

7 "A child or young person's wellbeing is influenced
8 by everything around them and the different experiences
9 and needs they have at different times in their lives."

10 LADY SMITH: We used to talk in terms of "welfare"; is there
11 really any distinction to be drawn between the child's
12 welfare and wellbeing?

13 A. I think the Scottish Government in particular has used
14 "wellbeing" more recently and sees it as a wider term to
15 encompass a wider number of facets of a child's life,
16 although I have to say that the kind of understanding of
17 terms like "welfare" and "wellbeing", are quite complex
18 and are not easily defined in this context.

19 LADY SMITH: They will inevitably be multi-factorial,
20 depending on the circumstances of the individual child.
21 I think that was recognised way back at the time of the
22 Convention on the Rights of the Child, wasn't it?

23 A. Yes.

24 MR MacAULAY: The term "welfare" is still the legal term
25 that's used in the legislation.

1 A. Yes.

2 Q. Then "children's rights"; I think you have some
3 explanation of that.

4 A. Yes. So here I'm talking about the civil, political,
5 economic, social and cultural rights to which all
6 children are entitled as set out in the United Nations
7 Convention on the Rights of the Child.

8 However, that was ratified by the UK in 1991, so
9 when talking about children's rights earlier, I would be
10 talking about the Declaration of the Rights of the Child
11 or earlier conventions or statements.

12 Q. Next slide, 0899. We have probably covered this one
13 actually.

14 A. Yes.

15 Q. This is where you set out the time periods of the
16 review.

17 A. Yes.

18 Q. Moving on then to the next one, 0900.

19 A. Yes, so this is reflecting on examining societal
20 attitudes and exploring the challenges. Firstly, it is
21 difficult to always identify when attitudes changed as
22 they have evolved over time and what was appropriate at
23 another period in history may not be viewed in the same
24 way in contemporary society but many writers who have
25 looked at the history of childhood or of child welfare

1 have said that understanding the context at the time is
2 really crucial to understanding past practices.

3 The review is undertaking an expectation that there
4 will be shifts over time, which indeed the review shows,
5 but it is actually very difficult to identify the
6 drivers for these shifts and how they informed policy,
7 practices and behaviours towards children. Sometimes
8 events are useful because they can profile a time of
9 change -- and the end of the Second World War is one
10 that is very obvious.

11 Finally, I think that it is important to acknowledge
12 that not all people hold or held the same attitudes or
13 similar attitudes at the same time. So there is
14 a number of assumptions that we have to make about what
15 was commonly understood to be shared attitudes.

16 Q. Moving on then I think to the next slide, 0901.

17 A. This is returning to my point about historical evidence
18 and its the fact that it is limited and often
19 fragmented. Certainly writers, and indeed myself when
20 I undertook work in the past, have found that, and
21 there's not a discrete literature on societal attitudes.

22 One of the most crucial points that I think needs to
23 be highlighted is that during most of the 20th century
24 there was little research on children's experiences and
25 therefore the perspectives of children and young people,

1 and therefore the views and perspectives of those in
2 care, were not as widely known.

3 As far as possible I have drawn on evidence from
4 Scotland, but as I have highlighted there is a paucity
5 of literature in that area. So where appropriate I have
6 also drawn on literature from elsewhere in the UK,
7 usually English or British-wide, taking into account
8 where there are common areas for consideration.

9 Q. We then move on to the next slide, 0902.

10 A. This considering how children and childhood were
11 regarded over the period. It is important to think
12 about different ways in which children have been viewed
13 and overall the review finds that children didn't have
14 the same status as adults during the period of review
15 and there were significant power inequalities between
16 adults and children.

17 Many writers on children's lives and childhood over
18 the last 20/30 years in particular have acknowledged
19 this and more recent work has examined the meanings that
20 childhood has for adults.

21 Here I flagged up some of the ways commonly which
22 childhood can be seen to be understood both in the past
23 and sometimes indeed in the present. So children are
24 often seen as powerless and vulnerable. They can be
25 seen as troublesome and stigmatised.

1 There is an understanding going back actually
2 hundreds of years as children being seen as innocent and
3 therefore needing education and the opportunity to
4 learn, or to be seen as evil.

5 In more recent times the sociology around childhood
6 has talked about human beings or becoming, adults in
7 waiting, or children in the process of developing into
8 adults but not having the same rights as adults.

9 Finally, in the contemporary period, a much stronger
10 focus on children being seen to have their own human
11 rights and their own agency or capacity to make choices.

12 Q. The next slide at 0903.

13 A. So if children can be seen as having these different
14 kinds of characteristics, the literature and evidence,
15 which of course is not extensive, shows that children in
16 care were often stigmatised or discriminated against.

17 They could be seen as troublesome or troubling and,
18 for example, Lynn Abrams, who has written a book on the
19 experience of children being cared for, says there was
20 an assumption that children must have done something
21 wrong if they were in care.

22 Many children in care had experience of poverty,
23 where families were similarly stigmatised, and that
24 generally there was few opportunities for children in
25 care to have their views heard and their views and

1 experiences, as I have mentioned, not generally
2 recorded.

3 Q. In the next slide then, at 0904, you begin to look at
4 the period 1900 to 1948.

5 A. Yes.

6 Q. Perhaps you can take us through the slide. So far as
7 the report is concerned we needn't look at that at the
8 moment. You begin this analysis at INQ.001.001.0757 in
9 the report.

10 A. Yes.

11 Q. Can you take us through the slide.

12 A. The slide, yes. Obviously this is a very extensive
13 period, almost half a century, and during that time
14 there were two major world wars and a lot of significant
15 social and economic changes but at the end of the
16 Victorian period the legislation was beginning to
17 protect children from poverty and destitution in
18 particular.

19 Charities were established, often by wealthy
20 philanthropists, in response to the failure of the
21 Poor Law to support those needs. Many of these
22 organisations were run by those with strong religious
23 beliefs.

24 But the legislation, for example the 1908 Children's
25 Act at the beginning of this period, showed a greater

1 interest in the welfare of children and protecting
2 children, although in this period child abuse was still
3 broadly known as "child neglect" and didn't have the
4 wide scope of meaning and understanding that we have
5 now.

6 Obviously, as well from the late 19th century on,
7 there were child migration programmes which were seen as
8 a way of charitable organisations responding to high
9 levels of capacity in their institutions but also as
10 a way of character building and developing -- in their
11 view, providing children with the opportunity to be
12 citizens of -- wider citizens of the British Empire.

13 MR MacAULAY: You make the point also, the third and last
14 bullet point, that most children that were in care were
15 boarded out in fact.

16 A. Yes, they were.

17 Q. Then, moving on to the next slide, 0905. Here we are
18 moving up to the 1930s.

19 A. Yes, a period of time which is useful to examine because
20 it is in the run up to the Second World War. It is
21 following the First World War and developments in the
22 1920s. Now there is a wider focus on children beyond
23 their physical needs because many children, although not
24 all, were healthier and there was more attention to
25 their developmental needs.

1 There was a major growth in psychological practice
2 and these ideas were given weight by the establishment
3 of a network of child guidance clinics and there were
4 actually 13 established in Scotland before the Second
5 World War and these had a strong focus on child
6 psychiatry and therefore there was the growing interest
7 on children's minds and on their mental health.

8 At the same time during this period there was also
9 new ideas about child rearing starting from the 1920s
10 and there were very diverse ideas ranging from those who
11 believed in the control of children to those who
12 suggested that parents should be more aware of
13 children's feelings with great availability of handbooks
14 and resource materials for parents becoming available
15 for the first time.

16 MR MacAULAY: Perhaps if we go to your report at this point
17 in time, INQ.001.001.0765, because you provide there
18 a summary of how you saw the end of this particular
19 period -- that's the period 1900 to 1948 -- to be. You
20 talk about the end of the Victorian period.

21 A. Yes.

22 Q. You have mentioned the work of philanthropists in
23 relation to dealing with poverty and that these
24 perspectives led to the growth of child interventions
25 which were intended to respond to concerns about the

1 physical, moral and spiritual wellbeing of children; is
2 that right?

3 A. Yes.

4 Q. You say at the end of that summary that by the 1920s and
5 1930s the physical wellbeing of children had improved
6 although poverty was still prevalent.

7 The last sentence:

8 "Legislation in the 1930s provided an indication
9 that attitudes to children were changing."

10 Can you just elaborate on that? In what way do you
11 say the attitudes were changing at that time?

12 A. There was a move beyond the focus on children's physical
13 state to thinking about the need for greater protection
14 and two pieces of legislation which I know you have been
15 looking at elsewhere had that strong focus --

16 Q. The 1932 Act?

17 A. -- yes -- on child welfare and updated the 1908 Act in
18 a particular way.

19 It would be also fair to say that alongside this
20 influence of psychology and psychiatry and the
21 development needs of children, there was also the
22 beginning of an interest in children's rights through
23 the Geneva Declaration of the Rights of the Child, but
24 that was not kind of widely known or understood beyond
25 a small select group.

1 Q. Very well. Moving on to the next slide at 0906. We are
2 now looking at the second period you looked at, 1948 to
3 1968.

4 A. Yes.

5 Q. Can you just take us through that?

6 A. In the period post the Second World War there was the
7 development of the welfare state which was seen as
8 a major post-war project which was going to rebuild the
9 country socially and economically and the immediate
10 post-war period saw a raft of legislation which had the
11 aim of supporting families.

12 At the end of the Second World War there had been
13 significant concern about children's welfare and it was
14 influenced by the experience of war and specifically
15 children's evacuation, which was seen to have had
16 a major impact on the public understanding of poverty
17 and social conditions, particularly in urban areas of
18 Scotland, and that the experience of evacuation was
19 actually very well recorded and evidenced. A report by
20 the influential Scottish Women's Group on Public Welfare
21 highlighted the importance of child guidance, nursery
22 schools and home school contact.

23 So there was a real interest in children's welfare
24 and with it having greater prominence and the work of
25 the Scottish Women's Group and the equivalent in England

1 had a strong interest in preventative work with
2 families, with the ensuing Act, the 1948 Act focused on
3 children's interests in a way that had not been the case
4 previously. But the thinking around the Act, and then
5 the Act "care", away from home was to be avoided where
6 possible, and the practice of boarding out was to be
7 continued, but there was a strong interest in preventive
8 work.

9 Q. If we look in the report itself at the particular report
10 that you have mentioned, the Scottish Women's Group
11 report, INQ.001.001.0767.

12 You discuss the report in the second-last paragraph
13 of the report and I think what you are saying
14 effectively is that this report called -- and the
15 equivalent English report -- for the family to have more
16 prominence in post-war Britain.

17 A. Yes.

18 Q. But the Scottish report highlighted differences between
19 the Scottish experience and the English experience.

20 A. Yes.

21 Q. What were the differences?

22 A. There wasn't the same negative stigmatising attitudes to
23 families and their experience of poverty in the same way
24 in Scotland. There was a more accepting view of family
25 circumstances than the English report.

1 Q. Is that what you mean when you say:

2 "Both English and Scottish reports asserted the
3 importance of child guidance, nursery schools and closer
4 home/school contact, reflecting a more child-centred
5 approach"?

6 A. Yes.

7 Q. Over the page then, on page 0768, is that where you
8 highlight the difference between the Scottish report and
9 the English report?

10 A. Yes.

11 Q. What you say is:

12 "The Scottish report did not attribute the
13 conditions of children to poor parenting or other social
14 failings and said the analysis of the evacuation
15 programme provided an opportunity in Scotland to
16 consider approaches which emphasised the structural
17 nature of poverty and its impact on children and
18 families rather than behavioural factors."

19 A. Yes.

20 Q. Is that the distinction?

21 A. Yes.

22 Q. If we move to the next slide at 0907. If you would like
23 to take us through this?

24 A. Yes. In this post-war period there was a stronger focus
25 on families and the focus on what was termed a "nuclear

1 family". In that instance that means two-parent
2 families with dependent children. So it was not seen to
3 include, for example, single parents. Around the notion
4 of the nuclear family, it was seen to be about complying
5 with norms around good parenting.

6 Conversely there was concern about problem families
7 and juvenile delinquency with concern about what was
8 seen as negative behaviours of -- and circumstances of
9 families that were causing problems and were -- kind of
10 the converse of nuclear families.

11 Q. But the next point you make was, in the 1960s, the
12 re-discovery that poverty was prevalent; what do you
13 mean by that?

14 A. That is a phrase used to describe the resurgence of
15 interest in poverty in the 1960s. As part of the
16 post-world war project around the welfare state, there
17 was assumption that all the needs of families would be
18 met by the new support and preventative measures that
19 were available.

20 But significant research, particularly that by Abel
21 and Townsend, who wrote "The Poor and the Poorest",
22 found that in actual fact poverty hadn't gone away, that
23 it was still there, and that it emphasised the impact of
24 family poverty as well.

25 Q. Then the next slide, 0908.

1 A. So in this period there was a greater understanding of
2 child development and needs following on from the work
3 in the 1930s with the work of psychologists,
4 sociologists -- who were a new professional group -- and
5 psychiatrists such as Burke and Isaacs and of course
6 Bowlby.

7 John Bowlby was seen -- his work on attachment
8 theory was regarded as very important for considering
9 the dangers of separating young children from their
10 mothers and families and how this separation could have
11 negative effects on children's development.

12 Q. Is that what attachment theory means?

13 A. Yes, it does. So these new understandings were seen as
14 important for the experience of children in care.
15 Bowlby and others from these professional groups wanted
16 to see ways in which families could be supported and was
17 actually against children going into institutional care,
18 favouring fostering and adoption. His view was that any
19 long separation of children from their parents could
20 have a permanent, negative impact on children.

21 However, those reflecting particularly on social
22 work practice at that time -- and this is
23 British-wide -- would say that the skills of those
24 working with children were often fragmenting and that
25 these new understandings were not necessarily reflected

1 or embedded in practice.

2 Q. Then moving to the next slide, 0909. I think there you
3 identify the United Nations Declaration of the Child
4 (1959)?

5 A. Yes. However these concepts of rights were not widely
6 used in the practice of social work, but at the same
7 time we have the beginnings of the work of
8 Lord Kilbrandon in developing the children's hearing
9 system as a more child-centred approach to care and
10 protection in offending. Generally in this period --
11 and there is very, very little written about it -- there
12 was little attention to children's voices or
13 perspectives.

14 Q. The next slide then, 0910?

15 A. So this is reflecting on understandings of child abuse.
16 As a concept in the way that we know it now it was not
17 well known in the period up to the 1960s. There was
18 still a focus on physical neglect, safety and the moral
19 upbringing on children rather than on the wider concepts
20 of child abuse that we would know now.

21 LADY SMITH: It struck me when I was reading your report,
22 Dr Elsley, that you seem to have captured a shift from
23 concentrating on what was not done for children to
24 realising that it was necessary also to think about what
25 might be doing done to children that was harmful --

1 A. Yes.

2 LADY SMITH: -- and that hadn't really been addressed in
3 these early stages.

4 A. Not in any kind of significant way in the way that was
5 done. I think the sort of child-centred work of
6 psychologists and sociologists and psychiatrists and the
7 new thinking about the impacts of these -- of different
8 theories on children was definitely a move to being more
9 child-centred rather than focusing on the physical
10 wellbeing of children which can also be seen as a more
11 external adult-led enterprise.

12 MR MacAULAY: You mentioned that in the 1960s that battered
13 child syndrome began to be influential.

14 A. Yes.

15 Q. In what way? Can you elaborate on that?

16 A. There was research done by US researchers in the late
17 1950s with them publishing in the early n1960s about
18 what they are called -- and that's why it is in inverted
19 commas -- "battered child syndrome" or "non-accidental
20 injury". That was a move to understanding that there
21 were situations where children were being deliberately
22 physically abused and although that in the 1960s it
23 was -- there was stronger medical interest, I would say,
24 in battered child syndrome than probably social work
25 interest, partly because the social work profession was

1 developing at that moment anyway.

2 Q. If we look at the report at INQ.001.001.0775, you have
3 a section there dealing with disabled children.

4 A. Yes.

5 Q. We are still looking at this period where you say that:
6 "Attitudes to children who were disabled began to
7 evolve in this period."

8 A. Yes.

9 Q. Can you tell us about that?

10 A. Well, up to that point, the disabled children, where
11 they were living away from home, were often in separate
12 institutions, but Kirsten Stalker, who has done a lot of
13 work on disabled children, highlights that there was the
14 beginning of the idea that disabled people were entitled
15 to an ordinary life and have the right to enjoy
16 a similar lifestyle to other citizens.

17 As Stalker says, this was a recognition that
18 children living in institutions had the same needs and
19 feelings as other children and the right to the same
20 experiences in family life.

21 Q. This is evolving, do you say, in the 1950s and into the
22 1960s?

23 A. Yes, it is the beginning. Again, of course, there is
24 very, very little written about the situation of
25 disabled children in Scotland.

1 Q. Prior to this period?

2 A. Yes. I mean there's just very little work that has done
3 on --

4 Q. At all?

5 A. Yes, yes. And Kirsten Stalker is one of those people,
6 but there is very little work generally.

7 Q. The summary you provide for us for this particular
8 period we are looking at -- I think, as you have
9 indicated, by 1945 Scotland was embarking upon the
10 development of the welfare state, along with the rest of
11 the UK. That's in the post-war period.

12 A. Yes.

13 Q. You still, I think, say that although there was a focus
14 on families, children's voices were still largely
15 unheard and absent in society.

16 A. Yes.

17 Q. The consequence of that was that there was a lack of
18 opportunities for children to influence child practice;
19 is that the point you are making?

20 A. Yes. There was just generally an absence of children's
21 voices in those kind of settings. They were not
22 influencing the legislation or the policy or practice at
23 that time; that would not have been at all expected.

24 Q. And children in care?

25 A. No.

1 Q. You do mention on page 0776 that physical punishment was
2 still being used but there was an increasing attention
3 to other approaches to discipline within the families.

4 A. Yes.

5 Q. Can you just tell me a little bit about that?

6 A. In terms of physical punishment, it was still widely
7 used, but the work of Newson and Newson, who did
8 research specifically in England in the 1960s, showed
9 that there was interest in different approaches to
10 disciplining children and their research then and
11 a decade or so later showed that in that period there
12 was, for example, a decrease in the use of physical
13 punishment of children. So attitudes were slowly
14 changing although it was still prevalent and, of course,
15 we don't have direct accounts of that as well; it is in
16 terms of historical interpretation.

17 Although it is useful to consider that -- and
18 certainly in the report -- Hill et al -- I think it is
19 1991 -- suggests that although there were still harsh
20 practices, the assumption could not be made that within
21 many families there was not harsh practices which might
22 include physical punishment of children, they couldn't
23 make that assumption.

24 Q. If we look at children in care in particular during this
25 particular period up to 1968, if you go back to

1 page 0769 of the report, we have a section there headed
2 "Children in care". You make reference to the
3 Children Act (1948) giving primacy to a child's
4 interests in a way that had not been the case
5 previously.

6 You say:

7 "A principle was that children in care were to be
8 treated as good parents would look after their own
9 children."

10 You make reference to Stevenson's work in 1998.

11 You then go on to talk about boarding out. But you
12 make references to Abrams and I think what you say there
13 is that children in care who were boarded out
14 experienced both good and harsh care. That is what you
15 take from her work?

16 A. Yes, and Stevenson there is writing reflectively on the
17 experience across Britain where, of course, Abrams was
18 focusing -- and Murphy -- in particular on Scotland.

19 Q. Moving on to the next page, 0770. You there in the
20 first main paragraph reference Shaw in 2007.

21 A. Yes.

22 Q. That's the Historical Abuse Systematic Review that was
23 carried out --

24 A. Yes.

25 Q. -- in 1950 to 1995. That is the review you contributed

1 to?

2 A. Yes.

3 Q. Who were the contributors to that review when Shaw talks
4 about:

5 "It is apparent from the scanty evidence that is
6 available little attention was paid to children's views
7 and experience"?

8 What children had Shaw identified?

9 A. I think that was in terms of the research that that
10 review undertook with people who were survivors, but
11 also drawing on the records because as part of that
12 process there was also work done by Professor Kendrick
13 and his team, which looked at the experience -- what was
14 happening across institutional settings as well.

15 I think that was drawn from a variety of evidence,
16 including people who had been spoken to, as well as the
17 literature reviews that were undertaken for that
18 systematic review.

19 Q. The other review that we looked to, just below the three
20 or four lines at the bottom of that paragraph, Shaw
21 (2011), if I look at your index it is the "Time To Be
22 Heard" pilot forum.

23 A. Yes.

24 Q. The comment that you have taken from Shaw was that:

25 "Contributors note variously that their experience

1 was that, 'We were there, not to be seen, not to be
2 heard, not to be taught anything', and we knew very
3 clearly we were not the wanted children."

4 A. Yes.

5 Q. You have taken that from that report?

6 A. Yes.

7 Q. Who were the children that were being identified in that
8 report, the "Time To Be Heard" report?

9 A. That was adults reflecting on their experience in
10 Quarrier's Homes and the work that Shaw did looked at
11 the experience of people during different decades as
12 well.

13 Q. You placed this within this particular period of 1948 to
14 1968?

15 A. Yes.

16 Q. Did you understand that to relate to that period?

17 A. Yes.

18 Q. Very well.

19 If we move on to the next slide which I think is at
20 0911. We are moving now to the period 1968 to 1995.
21 Perhaps you can just take us through the slide.

22 A. So this was another beginning of major change with
23 social change in family structures. So there were fewer
24 people getting married, more people getting divorced,
25 more single-parent families, more women returning to

1 work. So this period from the 1960s onwards was a time
2 of major social change.

3 Of course, the beginning of the period saw the major
4 reform of the Social Work (Scotland) Act, which gave
5 a lead role to local authorities and professional social
6 workers and crucially, of course, it established the
7 children's hearing system which included the
8 participation of children and parents in children's
9 hearings.

10 The Social Work (Scotland) Act had a strong focus on
11 trying to prevent family breakdown. So this was
12 a period where welfare approaches dominated for
13 approaches to supporting children and families with more
14 child-centred approaches emerging at the end of the
15 period.

16 So it was a beginning of a period of substantial
17 change in terms of the role of local authorities and
18 social work.

19 Q. As you said, the intention was to keep the families
20 together rather than children being boarded out or
21 placed in care?

22 A. Yes.

23 Q. Then the next slide, 0912. Again if you could just take
24 us through the points.

25 A. So, the thinking about the experience of childhood is

1 the raising of the school leaving age and more children
2 were going on to further and higher education. So in
3 terms of writers about children and childhood, it is
4 seen as the period of childhood extending.

5 As I have mentioned, the welfare approach dominated
6 and there was some attention to listening to children
7 but policy and practice was still patchy and the
8 regulatory framework did not generally take children's
9 views into account. There I have drawn on the work of
10 Shaw in terms of his perspective from doing that
11 previous work.

12 Q. Thank you. Moving on then to 0912, the next slide.

13 A. Broadly the number of children in foster residential
14 care were dropping in the 1970s with further falls in
15 the 1980s and writers on that period in Scotland say
16 there was a view that there were still remnants of the
17 notion of children being rescued, but it was more
18 child-centred. I just quote here from a report produced
19 by Strathclyde Regional Council in 1979 which said:

20 "The issue of the rights of children in care is
21 controversial. Rigid professional view points, expert
22 opinions and advice must be balanced with the wishes and
23 feelings of the child."

24 So there is an indication that a more child-centred
25 approach was being considered.

1 Shaw again suggests that there were changing
2 attitudes and values which were reflected in the
3 practice of children's care homes, for example, more
4 personal space, children staying in care for shorter
5 times, the provision of other services.

6 However, this has to be balanced by where there's
7 evidence, such as in the "Time To Be Heard" pilot, where
8 children were having negative or stigmatising or abusive
9 experiences.

10 Q. Just on that, I think's -- if you are looking at
11 page 0874 of the report itself, where Shaw -- I think it
12 is the "Time To Be Heard" pilot forum -- looks at the
13 different attitudes that were being -- the different
14 experiences that were being ventilated and, for example,
15 you say that in the "Time To Be Heard" pilot that some
16 contributors spoke of the stigma of being a nobody and
17 not being able to tell adults about physical, sexual and
18 emotional abuse.

19 A. Yes.

20 Q. You have placed that in this time frame of 1968 to 1995.
21 Do you understand that to be in respect of that period?

22 A. Yes.

23 Q. You also mention a Strathclyde Regional Council
24 report --

25 A. Yes.

1 Q. -- in 1979. Can you tell us a little bit about that?

2 A. Yes, that is the report I just mentioned and that was
3 done by -- that was a major report which was looking at
4 approaches to social work and other services for
5 children and their families. In that report, they
6 actually talked to young people who were in care, it is
7 one of the very few documents I found from that time,
8 and in that the report talks of the experience of
9 children in care being isolated, stigmatised and being
10 set apart and the report actually says:

11 "The public still appear to have a picture of
12 children's homes being filled with poor orphans or bad
13 children."

14 Q. That was the attitude at that time?

15 A. Yes.

16 Q. As reflected in the report?

17 A. That was the attitude that obviously the report was
18 aiming to counter in its work.

19 Q. Sorry, you tell us towards the top of the next page,
20 0785, that:

21 "Although there are not extensive accounts from
22 children at the time, it appears that the negative and
23 stigmatising attitudes seen in the post-Victorian period
24 of the early 20th century continued to have a resonance
25 alongside more positive attitudes to children in care."

1 A. Of course, and it is very difficult to measure the
2 extent and whether it was in the same depth or it
3 happened in the same way, but certainly reports like
4 that and the work of Shaw and others indicates that
5 there was still stigma and discrimination attached to
6 being in care.

7 Q. On the slide you mention a report by Skinner (1992).

8 A. Yes, "Another Kind of Home"?

9 Q. Can you tell us about that?

10 A. This was a very important report written by Frank
11 Skinner, who was the member of the Scottish Office. He
12 was the Chief Inspector of Social Work at that point.
13 In it it laid out the principles and approaches to
14 ensuring that residential care could meet the needs of
15 children. In that document it talks, for example, about
16 the importance of ensuring that children and young
17 people get the opportunity to have their views heard,
18 and it also explored potential good practice in those
19 establishments and it is definitely a very important
20 report in the development of residential care in the
21 1990s.

22 Q. So far as you are aware was it acted upon?

23 A. I think that would be better answered by others in
24 actual fact, but it was and is and continues to be
25 referred to as an important report of its time.

1 Q. The next slide at 0914, can we move onto that.

2 A. Yes. So this again is with very little information
3 again but again a good work of Kirsten Stalker.

4 Q. The headline here is "Attitudes to disabled children".

5 A. Yes. So here it is pointed out that there were changes
6 and improvements in meeting the needs of disabled
7 children in the 1970s and a move away from placing
8 children in long-stay hospitals and the beginning of the
9 establishment of respite care, which provided
10 an opportunity for families to have breaks in the late
11 1970s into the 1980s, and the development of a social
12 rather than a medical model of disability, which is
13 looking at the ways in which disability prevents people
14 from taking part in every day life in the way that
15 others can do so.

16 So it is moving away from the physical condition
17 that might be associated with being disabled to looking
18 more broadly at challenges and barriers.

19 Q. So you tell us in your report, just on that point, at
20 0785, when you are distinguishing the social model as
21 against the medical model and the reference to Stalker,
22 and that that distinguished between:

23 "... 'impairment', a physical, sensory or cognitive
24 limitation and 'disability', referring to the social,
25 material and cultural barriers which exclude adults and

1 children with impairments from mainstream life."

2 A. Yes.

3 Q. The next slide 0915, the heading there is "Attitudes to
4 poverty".

5 A. So this is following on from the point that I mentioned
6 earlier in terms of the re-discovery of poverty in the
7 1960s. Generally there was a more sophisticated
8 understanding of poverty from 1960 onwards with a focus
9 on family poverty and there were a number of significant
10 research projects undertaken.

11 Here I mention the work of the National Children's
12 Bureau, "Born to Fail", which looked at survey
13 information across Britain, so it included Scotland as
14 well, and it found that a disproportionate numbers of
15 children in care came from families who had experienced
16 poverty and in this report it actually says that the
17 number of children in Scotland who were disadvantaged by
18 poverty was higher than elsewhere in Britain and it was
19 one in ten. So that is significant.

20 But, in spite of this exploration of the nature of
21 poverty, there was still a stigma associated with being
22 poor, a notion of deserving and non-deserving and, for
23 example, the UK government at the time in the 1970s drew
24 attention to the cycle of deprivation, which focused on
25 families failings in terms of poverty.

1 Q. Moving on then to 0916, the next slide, where you have
2 got a heading "Understandings of child abuse, 1968 and
3 1995". Can you take us through that.

4 A. So linking back to the awareness of battered child
5 syndrome or non-accidental injury, there was
6 an increased interest amongst the social workers and
7 professionals working with children in this period.

8 But, the 1970s, 1980s up to the early 1990s is
9 noteworthy in terms of child abuse because of the number
10 of inquiries that there were into the deaths of children
11 which had a high media and public profile. These
12 highlighted failings in particular in the social work
13 and child welfare systems at the time, often
14 highlighting where children had not been at the
15 centre -- there hadn't been child-centred approaches
16 which allowed the experience of children to emerge. So
17 it was seen to be failings.

18 By the 1980s there was an increased understanding of
19 sexual and emotional abuse, and sexual abuse begins to
20 be more widely spoken about and understood, although of
21 course, it wasn't that it was unknown, but in the
22 previous period -- but it was that it began to be better
23 understood and that children's accounts were beginning
24 to be more widely acknowledged.

25 Q. If we look at what you say in the report at 0787 on this

1 particular point, it is towards the bottom of the page,
2 where you say -- it is the last paragraph:

3 "By the 1980s the term 'child abuse' had been
4 extended to encompass physical, sexual and emotional
5 abuse along with neglect."

6 That is a reference to Ferguson.

7 Do we take it from that, can you tell me, that
8 before that child abuse had not really focused on sexual
9 abuse in particular?

10 A. It hadn't focused on it, although the term had been
11 briefly used at different points in the historical
12 period, but it was in the 1980s that sexual abuse became
13 more widely acknowledged and professionally taken
14 account of.

15 Q. You provide a quote from writing -- this is the very
16 bottom of the page, writing in 1998, Hill et al. If we
17 move on to the next page, 0788:

18 "Sexual abuse was thought to be rare as recently as
19 the early 1980s, but is known to be quite common.
20 Disagreements remain about what counts as sexual abuse
21 and how to measure its incidence."

22 A. Yes.

23 Q. Although it was thought to be rare, in fact, it was
24 known to be, according to what's cited here, quite
25 common even prior to the 1980s. Is that what's being

1 said?

2 A. Yes. From that it could be assumed that there was
3 an unwillingness to explore it or to take it into
4 account in terms of children's experience. Even though
5 there are court cases and other instances going back to
6 actually the 19th century, which actually mentions
7 sexual abuse, but not in the same way as in the 1980s
8 when it became professionally understood.

9 LADY SMITH: Dr Elsley, you have already touched on the
10 growing understanding in the social work profession and
11 of course the impact of the 1968 Act, the formation of
12 the children's hearing system. Correct me if I'm wrong,
13 but my recollection is that there certainly was --
14 certainly by the 1980s -- becoming a growing commonality
15 of cases coming to children's hearings, being referred
16 on grounds which would include concerns about whether
17 a child was being sexually abused or not. I certainly
18 have a recollection of seeing these cases then being
19 challenged before the sheriff as to whether the grounds
20 of referral were established or not and sometimes on
21 appeal to the Court of Session.

22 But that sort of period in my own professional life,
23 I think, did see this growing understanding in the
24 social work profession and therefore bringing the cases
25 forward to the hearing to the courts of the possibility

1 that children were being sexually abused at home.

2 A. Yes. I'm not an expert in that particular territory,
3 but the literature very strongly says that sexual abuse,
4 as a commonly held concept, was not widely understood or
5 used until the 1980s, although it's obvious from
6 different cases in the past that it was known but it
7 just didn't have the same public acknowledgment or
8 professional acknowledgement.

9 LADY SMITH: Thank you.

10 MR MacAULAY: The next slide then is 0917. Here you are
11 looking now at attitudes to physical punishment.

12 A. Yes.

13 Q. What do you tell us about that?

14 A. So this goes back to what I was mentioning about the
15 research team Newson & Newson which shows a change in
16 attitudes to parents physically punishing their
17 children.

18 In the 1960s, 95% of parents who hit children
19 thought they had a right to and this dropped to 81% by
20 the time Newson & Newson published their next report in
21 the 1980s. Corporal punishment was banned in state
22 schools in 1986 and then the Scottish Law Commission
23 considered changes in the corporal punishment of
24 children in the early 1990s but this was -- where they
25 pointed out that there was a body of opinion in favour

1 of abolishing or restricting the parental right of
2 corporal punishment, but this was rejected in the
3 passing of the Children (Scotland) Act, although it was
4 revisited in 2000 by the Scottish Executive as it then
5 was.

6 Q. Then, I think the final slide in this period we are
7 looking at, 1968 to 1995, is at 0918. You have headed
8 this slide:

9 "The development of children's rights."

10 A. Yes. So there was a growing interest in children's
11 rights in the late 1960s and 1970s, but this was
12 restricted to very much a discrete group of
13 professionals and those interested in children's rights,
14 but it wasn't -- children's rights were not explicitly
15 taken into account until the 1980s and 1990s.

16 The UN Convention on the Rights of the Child was
17 developed during the 1980s and then adopted by the UN in
18 1989 and ratified by the UK government in 1991, so that
19 the principles related to the Convention influenced the
20 Children (Scotland) Act in 1995.

21 There was a growing understanding during this
22 period, but not strongly expressed in professional
23 contexts.

24 Q. In Scotland?

25 A. In Scotland.

1 Q. Very well. The next slide is at 0919. You are now
2 beginning to look at the period 1995 to 2015 and in
3 particular you begin to focus on the Children (Scotland)
4 Act (1995) which you describe as reflecting a changing
5 approach to children's welfare.

6 A. Yes.

7 Q. Can you develop that for us then?

8 A. That was -- it obviously updated previous legislation
9 and there was a stronger focus -- well, there was
10 a focus on children's views being taken into account in
11 matters that affected them. More particularly there was
12 a move to a focus on the child rather than solely on --
13 not solely, but on parents.

14 So it reflected a changing approach to children's
15 welfare and incorporated some of the principles, for
16 example, Article 12, the right of the child to be heard
17 in decisions that affect them, in the legislation.

18 So it indicated greater commitment to child-centred
19 approaches in a way that hadn't been before and is --

20 Q. As you tell us, by 1999, Scotland had the capacity to
21 take forward more legislative and policy initiatives
22 because of devolution?

23 A. Yes, because Scotland had the capacity to make
24 legislation and make policy in a way that it hadn't had
25 before because of devolved powers.

1 Q. Moving to the next slide, 0920. Here you are talking
2 about the approaches to child wellbeing. Can you take
3 us through the points you want to make here?

4 A. So there was a move away from the view of the child --
5 here I'm quoting from a Scottish Executive document from
6 2001 -- as:

7 "... vulnerable and needy, a passive recipient of
8 rights."

9 To one which was rights focused. So we see in
10 government documentation a commitment to moving away
11 from a view of a child as being vulnerable and not
12 having agency and rights to one which was focused on
13 their capacity to contribute.

14 During this period, in the early part of the 20th
15 century, we obviously had a growth in the number of
16 independent mechanisms to support children and young
17 people and protect their rights. So we have the
18 establishment of the Commissioner for Children and Young
19 People in Scotland, the office, from 2004. We have the
20 growth of independent advocacy. In that sense it means
21 independent support for children who are looked after in
22 other situations with, for example, the work of "Who
23 cares? Scotland" and across at least some local
24 authorities the position of children's rights officers
25 where these postholders had a responsibility to consider

1 and protect the rights of children, particularly
2 children in care.

3 Q. On the same topic, "Approaches to child wellbeing, 1995
4 to 2011", I think you develop the position at this time.
5 Can you tell us about that?

6 A. Yes. This period had a number of reviews of policy in
7 practice in both residential care, foster care, child
8 protection at different points with an increased
9 scrutiny of policy and services for children. The new
10 government overarching approach to child wellbeing --
11 "wellbeing" being the term that's used in it -- through
12 the "getting it right for every child" approach, which
13 has then been embedded in the Children and Young People
14 Act (2014).

15 Q. But the "getting it right for every child" approach,
16 that would also cover young people in care?

17 A. Yes, absolutely.

18 Q. As you said, this takes us up to the Children and Young
19 People Act (2014).

20 A. Yes.

21 Q. Then the next slide, 0922, you have headed
22 "Understanding of childhood: 1995 to 2015". Can you
23 just take us through that?

24 A. Well, in comparison with the earlier periods there was
25 a much stronger focus on children's rights with the

1 influence of the UN Convention on the Rights of Child,
2 which was balanced alongside -- sociological in terms of
3 an academic discipline, understandings of childhood
4 which focused on the agency of children, the right of
5 children to be considered as people in their own right,
6 rather than as adults in waiting, generally seeing
7 children as "more active, knowledgeable and socially
8 participative than in the past".

9 So these perspectives promoted children as persons
10 with rights and agency and generally, since the late
11 1990s into the 21st century, there has been a greater
12 focus on the importance of children's views and
13 experiences being listened to and taken into account in
14 decisions that affect them and, more broadly, in policy
15 development.

16 Q. Do you say the UN Convention has been influential in
17 that movement?

18 A. Yes.

19 Q. Very well. The next slide, 0923, is where you are now
20 looking at the attitudes to children during this period.
21 1995 to 2015.

22 A. Yes. So in comparison with earlier periods it is much
23 easier to identify, partly because of written
24 documentation, positive changes in attitudes to children
25 as represented by specifically public bodies and other

1 organisations, such as charities and other agencies.

2 However, in spite of this, children and young people
3 have still identified, through research and
4 consultation, that they have experienced negative
5 attitudes and I quote here from the "Together in
6 Scottish Alliance of Children's Rights," the "State of
7 Children's Rights" report for 2016, which highlighted
8 that children and young people were still experiencing
9 discrimination in different parts of their lives.

10 Q. If we look at the report 0794, is that the discussion
11 you have on that page about stigma and discrimination?

12 A. Yes.

13 Q. You are making reference in the report:

14 "'The State of Children's Rights' report (2016)
15 Highlights that children and young people in Scotland
16 reported that they experienced stigma and discrimination
17 in different parts of their lives."

18 A. Yes.

19 Q. The next slide at 0924, again, you are looking at the
20 attitudes to children during this period?

21 A. Yes.

22 Q. What do you tell us here?

23 A. Here I'm flagging up that the UN Committee on the Rights
24 of the Child in 2016, in its concluding observations to
25 the UK Government, identified that the UK Government --

1 and therefore in Scotland as well -- had to make
2 progress in mitigating negative attitudes to children.

3 They found that there was negative attitudes and
4 just a general intolerance to the childhood --

5 Q. Can you elaborate upon that finding?

6 A. Well, that would be based on the submissions that went
7 in from the UK Children's Commissioners and also
8 non-governmental organisations across the UK, which
9 identified that children were experiencing negative
10 attitudes and a report, which I was involved in
11 producing in 2013 for the Scottish Government, which
12 actually analysed research that had been undertaken with
13 the views and experiences of children as expressed in
14 research found that children were still experiencing
15 negative attitudes in different aspects of their
16 lives -- not consistently and across the board, but in
17 some situations.

18 LADY SMITH: How was that research carried out?

19 A. So, the research in 2013 was a review of all the
20 research and consultation that could be identified in
21 the preceding -- I think it was a five-year period --
22 undertaken in Scotland which had looked at the views and
23 experiences of children and young people.

24 So it analysed that research and identified key
25 messages and themes that were emerging. That report was

1 undertaken in order to inform the Scottish Government's
2 contribution to the UK Government report to the
3 UN Committee on the Rights of the Child.

4 LADY SMITH: What sort of consultations or researches was
5 this review looking at?

6 A. Well it looked at -- I think it was over 200 pieces of
7 research and that included formal academic research, it
8 included research that had been undertaken by bodies
9 like the Children's Commissioner or by local authorities
10 or by Scottish Government or commissioned by the
11 Scottish Government or consultations as part of other
12 evidence-gathering enterprises.

13 LADY SMITH: Thank you.

14 MR MacAULAY: The UN Committee, as you pointed out, then
15 identified that the UK had to make progress. Is there
16 some sort of instruction sent out to the UK for that to
17 occur?

18 A. Well, the concluding observations are the document that
19 is given to the UK Government and also to the Scottish
20 Government. The Scottish Government in turn have to
21 decide how they will take that into account and progress
22 that in the period before the next report that the UK
23 Government makes to the UN Committee on the Rights of
24 the Child, which will be about in five years' time.

25 Q. The UN Committee does that report on a particular time

1 frame basis?

2 A. Yes. So it is broadly every five years but in actual
3 fact it is usually extended because of the time period.
4 So this was the fifth report that the UK Government had
5 done since the ratification of the UN Committee.

6 LADY SMITH: Mr MacAulay, I think we will continue this at
7 2 o'clock, if we may, and finish off exploring the
8 UN Committee then.

9 MR MacAULAY: Very well, my Lady.

10 LADY SMITH: We will adjourn at this stage and would
11 everybody be back, please, to start again at 2 o'clock.

12 (1.00 pm)

13 (The luncheon adjournment)

14 (2.00 pm)

15 LADY SMITH: Mr MacAulay.

16 MR MacAULAY: My Lady.

17 Before lunch, Dr Elsley, we had been looking at
18 slide 0924 and I think we can now put that one back on
19 the screen.

20 I think the technology is now working across the
21 board, so that we can all look at our own monitors. We
22 had been discussing the UN Committee on the Rights of
23 the Child before lunch. The next bullet point you
24 mention on the slide is telling us that research has
25 found that many children and young people have had

1 positive experiences in care.

2 A. Yes. Research with children and young people say that
3 they do have positive experiences of care and I think it
4 is important to assert that, that they had these
5 positive experiences, and that's drawing on work from
6 here in Scotland and in British/UK-wide research.

7 Q. I'm looking at your report, is it by someone by the name
8 of Bazalgette? That is on page 0794. But conversely
9 you also say that children and young people also
10 reported that they experienced stigma and
11 discrimination --

12 A. Yes.

13 Q. -- in care.

14 A. Yes. So the presence of those negative attitudes and
15 the perception and experience of being discriminated
16 against is reflected in children in care.

17 Q. And the research that you pointed to -- was this 2014?
18 So it is recent work?

19 A. Yes.

20 Q. This notion of stigma and discrimination, is it right to
21 say that really has been something that has been present
22 throughout the review, albeit possibly with a different
23 emphasis?

24 A. Yes. I certainly found it to be present all the way
25 through the review and directly, in terms of the last

1 period, with the evidence coming from children and young
2 people in care themselves.

3 Q. That, I think, comes not just from research done by
4 others by also from your own research; is that right?

5 A. From certainly the analysis of research studies
6 undertaken with children and young people, and it found
7 that. And also --

8 Q. By yourself, by you?

9 A. By me. Not directly with the young people in care but
10 in analysing other research studies.

11 Q. If we turn to page 0795 of your report, there is --
12 I think, you reference that work, towards the top of the
13 page, that you did in 2013.

14 A. Yes.

15 Q. You also mention an English work "The Care and Prejudice
16 Report" published by the Children's Rights Director for
17 England, which found that children and young people
18 thought that the general public saw them as "troublesome
19 and uncontrolled". Is that generally or in care?

20 A. That would be for children in care because of that
21 service, yes.

22 Q. Can we move on to the next slide, Dr Elsley. You are
23 looking here at -- that's at 0925. We are looking at
24 attitudes to disabled children; can you take us through
25 this slide?

1 A. So, more recent work -- and I'm drawing on two or three
2 studies here -- are referencing that disabled children
3 are more likely to be looked after and in residential
4 care, although Stalker, who says this, says is also not
5 in-depth studies about this area.

6 Again, using the phraseology again that they are
7 more likely to experience stigma and discrimination and,
8 again, through several pieces of research, not have
9 sufficient opportunities to have their voices heard as
10 disabled children and young people.

11 LADY SMITH: When you use the term "disabled children", what
12 definition of disability do you have in mind? I am sure
13 you appreciate the legal definition of disability for
14 discrimination purposes has evolved over the years.
15 Even since the 1995 Act, we see a slightly different
16 shift in the Equality Act. What is it you are thinking
17 about?

18 A. I'm broadly thinking about that as well, but covering
19 the scope of physical disability, learning disability
20 and -- within that framework.

21 LADY SMITH: So one end of the range you would go as far as
22 children who are in need of additional support of some
23 sort but may not strictly qualify under the statutory
24 definition for disabilities; is that right?

25 A. Well I think that would be a slightly grey area because

1 some of these children might not be disabled in that
2 context. But using it in that broad sense of children
3 who would have additional support needs, but not all
4 children with additional support needs would perhaps be
5 disabled.

6 LADY SMITH: No, but a number of them may be in residential
7 care.

8 A. But they may be, yes.

9 LADY SMITH: If the local authority accepts that their needs
10 are such that they require to go to a residential
11 school, then the local authority has to fund it.

12 A. Yes.

13 MR MacAULAY: You deal with disabled children on page 0799
14 through to page 0800 in the report itself.

15 A. Yes.

16 Q. What you tell us is that disabled children are more
17 likely to be looked after and in residential care than
18 children who are not disabled.

19 A. Yes, according to the research.

20 Q. The research?

21 A. Yes.

22 Q. With regard to "more likely to experience stigma and
23 discrimination" and "not having sufficient opportunity
24 to have their voices heard", is that in reference to
25 research you have looked at?

1 A. Yes.

2 Q. Then the next slide at 0926 that's headed
3 "Understandings of abuse". Can you just take us through
4 that?

5 A. So I'm drawing on several things here. There have been
6 a number of public surveys, for example, by the NSPCC --
7 again, UK-wide or Britain-wide -- which have shown that
8 the public are ambivalent in reporting child abuse and
9 have different contradictory attitudes in awareness. So
10 that depends sometimes on how well those children are
11 known to the member of the public but, yes, that comes
12 up.

13 Secondly, there is increased awareness of new forms
14 of abuse, such as sexual exploitation and online abuse,
15 that we would not find mentioned in the same way in the
16 previous periods.

17 In terms of sexual exploitation, which is a form of
18 sexual abuse that recent reports, like that of
19 Professor Jay's in terms of Rotherham, highlights where
20 children and young people were not well believed or
21 action wasn't taken to support them in terms of being
22 sexually exploited.

23 Q. The point you make about sexual exploitation and online
24 abuse, if we can pick up what you say in the report and
25 that is at page 0798. You make some comments towards

1 the top of that page. You say that:

2 "Recent reviews show that there has been limited
3 information available about children and young people's
4 views on online protection, sexual exploitation and
5 trafficking."

6 That is research by yourself, is it?

7 A. Yes, along with my colleagues. That piece of research
8 was complementary to the other study I was talking about
9 and that sought to explore children and young people's
10 views and experiences in terms of child protection.
11 That was a focused review looking at child protection.

12 Q. You go on to say:

13 "In Scotland, the Revised National Action Plan on
14 Sexual Exploitation found that most parents did not know
15 what sexual exploitation was and there was little
16 knowledge of online grooming and abuse."

17 That is a Scottish Government publication?

18 A. Yes.

19 Q. But there is an action plan is there, if we read on?

20 A. Yes there is an action plan published in 2016 and as it
21 says here:

22 "To address a range of factors including inequality,
23 discrimination and objectification which supports
24 a culture in which exploitation takes place."

25 Q. Is that an ongoing process?

1 A. Yes, I understand that to be.

2 Q. The next slide then, 0927, you have headed that
3 "Attitudes to physical punishment".

4 A. Yes.

5 Q. Can you tell us what you are telling us in that slide?

6 A. Following on from my previous discussions of physical
7 punishments in earlier periods, this final period shows
8 that there are changing attitudes to physical
9 punishment. There are a variety of surveys, research
10 and reviews which have been undertaken during this
11 period and that the prevalence of the use of physical
12 punishment had declined during the period. I quote
13 here, from the Scottish Executive Consultation from 2000
14 and from more recent work which was commissioned by the
15 Children's Commissioner, plus other organisations, which
16 looked at existing studies.

17 Finally, the point I make is that the UK Government
18 was criticised by the UN Committee on the Rights of the
19 Child in 2016, as it has been in previous concluding
20 observations from the UN Committee, for children not
21 having the same legal protection as adults under the law
22 relating to assault or physical punishment.

23 Q. Do you mean by that that to inflict punishment on
24 a child discriminates against the child because if you
25 did the same to an adult, that would be an assault?

1 A. Yes, absolutely.

2 Q. If we look at the report at 0799, it is the second main
3 paragraph where you, I think, discussed this particular
4 point and what you say is that:

5 "The UN Committee on the Rights of the Child (2016)
6 criticised the UK for the continued use of physical
7 restraint, calling for the abolishment of: all methods
8 of restraint against children for disciplinary purposes
9 in all institutional settings, both residential and
10 nonresidential, and ban the use of any technique
11 designed to inflict pain on children."

12 A. Yes. Of course, that point in particular relates to
13 physical restraint as opposed to physical punishment.
14 So it is slightly different although I put it in that
15 same section, but that has been an area where the UK has
16 again been criticised by the UN Committee and where
17 there has been concern raised by organisations in the
18 past.

19 Q. Within the devolved context, would this be something for
20 the Scottish Government to address?

21 A. Yes.

22 Q. You then set out some conclusions in the next, I think,
23 two slides beginning at 0928. Can you perhaps pull that
24 together for us and tell us what your conclusions are?

25 A. Covering such a long period and in the complexity of the

1 changes, it is of course difficult to come up with
2 a very short list of conclusions. But from my review
3 I have come up with the following points which is that
4 our knowledge and understanding of children's lives and
5 their childhoods has increased considerably since the
6 1900s and I think that is pretty unequivocal.

7 At the same time, there's a greater understanding of
8 children's developmental needs through the work that has
9 progressed and alongside that there is a better
10 understanding of the challenging circumstances that
11 children experience and that affect children.

12 There's also a greater focus on child wellbeing,
13 with that phraseology being used by policymakers and
14 professionals, particularly in the last period of the
15 review.

16 Alongside that there is an increased understanding
17 of child abuse and its impact on children. Finally,
18 that children are recognised as rights holders in terms
19 of -- their children's rights are seen as being -- it
20 being necessary to realise their children's rights
21 through the role of government and other duty bearers.

22 LADY SMITH: You didn't specifically, I think, draw it out
23 in passing, but did we see this in the shift in the
24 Children (Scotland) Act (1995) when the concept of
25 parental right was firmly shelved in that primary is the

1 parental responsibility and parental rights are only
2 held to enable parents to discharge their
3 responsibilities towards children, thereby putting the
4 children's right to be nurtured and properly cared for
5 by the responsible parent as the main priority?

6 A. Yes, and that I think is such a significant shift and of
7 course the UNCRC in its articles does recognise the
8 necessary and important role of parents, so it doesn't
9 undermine it in that sense.

10 Q. Those conclusions you have drawn out if that slide then,
11 these are positive conclusions?

12 A. Yes.

13 Q. Then on the next slide, at 0929 you put some other
14 factors into the balance, do you?

15 A. Yes. We have already discussed that children and young
16 people generally, and with experience of care, still
17 identified at the end of the period, at 2015, that they
18 were experiencing stigma and discrimination and at the
19 same time children and young people also have
20 highlighted through various pieces of research and other
21 evidence that they are not consistently heard across all
22 aspects of their lives. This doesn't mean that those
23 experiences are wholly negative but it does highlight
24 that in certain situations and certain contexts and for
25 certain children and young people they experience these

1 negative situations.

2 Thirdly, that understandings of child abuse and
3 different forms of abuse are still developing, for
4 example, sexual exploitation and online abuse as well.

5 Q. In the next couple of slides I think -- two or three
6 slides -- you put forward what you highlight as issues
7 in children in care arising from review. That begins at
8 0930. Can you tell me: what are you addressing in these
9 issues that you have set out for us in these remaining
10 slides?

11 A. Well, I have picked up on several points that appear to
12 me to emerge from some of the themes across the four
13 periods of the review.

14 The first one, as we have already discussed, is that
15 stigma and discrimination continue to be present for
16 children in care. So I was suggesting that there is --
17 the potential and interest in addressing stigma and
18 discrimination against children in care so that children
19 have a positive care experience and I'm referring here
20 to the UN Committee on the Rights of Child's concluding
21 observations. I will just quote what the UN Committee
22 said the UK Government should progress. It said:

23 "It should strengthen its awareness raising and
24 other preventative activities against discrimination and
25 stigmatisation and, if necessary, take temporary special

1 measures for the benefit of children in vulnerable
2 situations."

3 So that was in the UN Committee on the Rights of the
4 Child's concluding observations.

5 Following on from that is an associated point drawn
6 from the evidence I have looked at, ensuring that
7 professionals working with children in care have
8 training opportunities to explore adult's, theirs and
9 others', attitudes to children and the influence on
10 practice.

11 Q. You say "ensuring"; are you suggesting that that's
12 something that can be improved upon or --

13 A. Yes. If children are experiencing stigma and
14 discrimination it thereby follows that we are not
15 therefore doing enough to counter that as adults and
16 professionals.

17 Q. Then in the next slide 931.

18 A. Again, a surprising point in view of the fact that the
19 importance and in some cases -- in many cases the
20 absence of children's voices being heard throughout the
21 four periods of the review.

22 So suggestions that ensuring that children's voices
23 are heard and listened to across all forms of care,
24 influencing systems, procedures and children's services,
25 and again recognising that this is already happening in

1 many situations, but children and young people report
2 inconsistent experiences around that.

3 Q. That's what you are trying to reflect in that particular
4 point?

5 A. Yes.

6 Q. The next point then?

7 A. The next point, following on from that, is taking into
8 account where children might find it difficult to have
9 their voices heard and take action and where there are
10 gaps.

11 So, for example, I picked up that disabled
12 children's voices don't always get heard. So suggesting
13 that some attention to where children and young people
14 might not be having the opportunity to have their own
15 voices heard -- and again I'm referring to the
16 UN Committee on the Rights of the Child Committee on the
17 Rights of Child and I will just draw on one point where
18 it says that for example that -- this is in the
19 concluding observations:

20 "Many children feel that they are not listened to by
21 their social workers, reviewing officers, paid carers,
22 judges, personnel working with them in conflict with the
23 law, or other professionals in matters affecting them,
24 including in family proceedings.

25 So just drawing on that point from the UN Committee

1 on the Rights of the Child.

2 LADY SMITH: I understand that as a level of generality, but
3 is there anything more specific about the particular
4 types of things that children consider they are not
5 listened to about? It is very easy to say, nobody
6 listens to me, but what is it they are wanting to get
7 across that is not being heard.

8 A. I think that might be something that is useful to
9 explore, about whether that's actually the experience of
10 a child in a child's hearing system or whether it is
11 an experience in a residential setting or in a foster
12 care setting or if it is more generally. I think that
13 there is some research which shows that children are not
14 consistently heard in those situations, but perhaps have
15 further exploration in order to identify gaps. But
16 straightforwardly, for example, disabled children said
17 that they were not consistently listened to.

18 LADY SMITH: Has anyone identified whether there is
19 a problem with self-confidence? I have in mind that
20 where a child has self-confidence classically nurtured
21 by a loving home they may feel more ready to speak up
22 and able to speak up than otherwise and compare that to
23 a child being brought up in a care setting --

24 A. Yes.

25 LADY SMITH: -- who may not readily develop the same

1 confidence to make their views known and explain what it
2 is that they are trying to say. Have any studies looked
3 at that?

4 A. There possibly is, but as you are speaking I'm thinking
5 about the work I did on a review of advocacy services in
6 Scotland and that identified that children and young
7 people -- the work Who Cares? Scotland does as well,
8 like having a trusted adult that they could speak to
9 about matters that concerned them and that having that
10 independent support, someone they could go to to speak
11 about matters that could concern them, was very
12 important and sometimes that could be an independent
13 advocate, but it could be another trusted adult, it
14 could be a teacher or it could be a social worker.

15 MR MacAULAY: The final slide we come to is 0932.

16 The first point you make, can you take us through
17 that?

18 A. Yes, this is a broader point which might have been
19 picked up in other contributions to the Inquiry but from
20 the work that I did, it appears that it would be
21 beneficial to have a greater knowledge of children's
22 experience of abuse especially in areas which are not so
23 well explored, such as sexual exploitation and certainly
24 in work around child protection. There's not always
25 been a lot of extensive direct work finding out about

1 children's experiences.

2 Q. The final point then, Dr Elsley?

3 A. This is a much broader point but throughout the review
4 it has struck me that the presence of child and family
5 poverty has been quite crucial to -- in its relationship
6 to care and there isn't a great deal of work in Scotland
7 of the links between child and family poverty and care
8 and how that might impact on policy and practice and
9 indeed on children's experiences of care.

10 Q. Well, thank you Dr Elsley. No written questions have
11 been submitted. My learned friend Mr Gale raised
12 a couple of points, I think, which I have covered in
13 leading the evidence, unless Mr Gale has anything else
14 to say.

15 Thank you, Dr Elsley.

16 LADY SMITH: Thank you Mr MacAulay. Mr Gale?

17 MR GALE: No, my Lady. I did mention a matter to
18 Mr MacAulay and I'm very grateful to him for covering it
19 for me.

20 LADY SMITH: Thank you very much. I'm not aware of anything
21 else having been raised.

22 Dr Elsley, thank you very much for your
23 assistance -- both in providing us in advance with your
24 detailed written report and attending today to speak to
25 the slides you prepared, which were very helpful indeed.

1 I'm now able to let you go. Thank you.

2 (The witness withdrew)

3 The hearing will now adjourn until Tuesday at
4 10.00 am when we will start with -- are we able to give
5 a trailer for Tuesday?

6 MR MacAULAY: We can, my Lady, and that is we will start to
7 look at the report produced by the Scottish Government.

8 LADY SMITH: Thank you very much. We will adjourn now until
9 Tuesday.

10 (2.30 pm)

11 (The Inquiry adjourned until 10.00 am
12 on Tuesday, 6th June 2017)

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