

1 Tuesday, 10 May 2022

2 (10.00 am)

3 LADY SMITH: Good morning and welcome to the second week of
4 our hearings in relation to the Inquiry's foster care
5 case study. We have witnesses ready for today, it will
6 be oral witnesses all day, and I think Ms Innes is ready
7 to introduce them. Is that right?

8 MS INNES: Yes, my Lady. The first witnesses will be
9 Helen Happer and Alison Jamieson from the Care
10 Inspectorate.

11 LADY SMITH: Thank you very much.

12 Ms Alison Jamieson (affirmed)

13 Ms Helen Happer (affirmed)

14 LADY SMITH: The first question I have for you I hope is
15 an easy one. How would you like me to address you? I'm
16 happy to use either your second names, Ms Happer,
17 Ms Jamieson, or your first names, Helen and Alison.
18 Whatever works for you?

19 MS JAMIESON: Alison is fine for me.

20 MS HAPPER: I'm happy to be Helen.

21 LADY SMITH: Thank you. I see you have your hard copy
22 ready. You'll also see what you are being referred to
23 coming up on screen, so use either or neither, whichever
24 helps you.

25 Any questions at any time, please do let me know.

1 Thank you in advance for the help you've given us in
2 writing. The intention is not to make this feel like
3 an examination, but to enable you to help us even
4 further, I hope, in understanding the information and
5 advice you've been able to give us.

6 If you have nothing else at the moment you need to
7 ask me, I'll hand over to Ms Innes, is that all right?

8 Ms Innes.

9 Questions from Ms Innes

10 MS INNES: Thank you, my Lady.

11 Helen, if I could start with you, please, you've
12 provided the Inquiry with a CV and I see from that that
13 your current role is as a chief inspector with the Care
14 Inspectorate. You say that your current role involves
15 delivery of regulation of registered care services for
16 children and young people and development and delivery
17 of strategic scrutiny activity for children and young
18 people, joint inspections and link inspector
19 responsibilities.

20 Do I understand from that that you essentially have
21 a senior role within the organisation and does part of
22 your role involve oversight of the adoption and
23 fostering inspections?

24 MS HAPPER: Yes, that's correct.

25 Q. You have been with the Care Inspectorate itself I think

1 since 2011?

2 MS HAPPER: That's right.

3 Q. Prior to that, you were at the Social Work Inspection

4 Agency from 2004, and then HMIE from 2006 to 2011?

5 MS HAPPER: That's correct.

6 Q. Prior to being involved in inspection work, I think you

7 worked for ten years with Barnado's?

8 MS HAPPER: That's correct, yes.

9 Q. Was that in children's services?

10 MS HAPPER: It was, yes.

11 Q. Then again prior to that I see that you were working as

12 a social worker, I think, from about 1984?

13 MS HAPPER: That's correct, yes.

14 Q. First of all in Sheffield, then in Barnado's, then in

15 Strathclyde and then in Fife Council in various roles.

16 MS HAPPER: Yes, I'm very old.

17 Q. Were these roles again primarily in children and

18 families work?

19 MS HAPPER: They were, yes.

20 LADY SMITH: I think you mean very experienced, Helen, not

21 very old.

22 MS HAPPER: 1984 seems a long time ago.

23 LADY SMITH: I think you're even at the stage you can start

24 to claim wisdom.

25 MS INNES: Thank you for that, Helen.

1 If I can just turn to you, Alison, again you've
2 provided a CV for the assistance of the Inquiry, and
3 I see that your current role with the Care Inspectorate
4 is as team manager and that you're the lead for adoption
5 and fostering. Is that right?

6 MS HAPPER: That's right.

7 Q. You've been in that role as a team manager since 2016?

8 MS HAPPER: Yes, yes.

9 Q. I think maybe lead for adoption and fostering since
10 2017?

11 MS JAMIESON: Yes.

12 Q. Prior to that role, I think you were with the Care
13 Inspectorate and prior to that the Care Commission as it
14 then was. You've been there since February 2003?

15 MS JAMIESON: That's right.

16 Q. In your work with the Care Commission and then the Care
17 Inspectorate, have you always been working in the area
18 of fostering or have you had broader roles?

19 MS JAMIESON: I've had some broader roles. I was a team
20 manager, team leader, since 2004 with the Care
21 Inspectorate, initially having a generic team because we
22 had generic teams at that point in time, and after
23 restructuring into specialist teams, I was a team
24 manager for children's services. Within that, I had
25 a couple of acting-up roles as service manager as well,

1 overseeing children and young people's services.

2 Q. Okay. Prior to your work with the Care Commission and

3 then Care Inspectorate, I see that your background is

4 also in social work and you primarily worked, I think

5 again also from 1984, in fact --

6 MS JAMIESON: Yes.

7 Q. -- with Scottish Borders Council?

8 MS JAMIESON: Yes.

9 Q. I think you had various social work roles there. What

10 was your primary area of work when you were working with

11 the Council?

12 MS JAMIESON: Initially I was a generic social work, so

13 worked across service types, so children and young

14 people and again Local Authorities restructured early in

15 the 1990s and from that point I worked in children and

16 families' teams, so I was a social worker in a children

17 families team and I was a senior social worker in

18 a children and families team, yeah, so that was what

19 I was doing, yeah.

20 Q. I think you had particular work with children affected

21 by disabilities?

22 MS JAMIESON: I did at one point, yes.

23 Q. Right, thank you for taking us through some of your

24 background. As I say, the Inquiry has your full CVs.

25 You're obviously giving evidence as a panel today,

1 and my understanding is that, Helen, obviously, having
2 a senior role, you're here to assist with any high-level
3 or overview issues, and Alison, having day-to-day
4 experience of how a fostering inspection works and
5 having been involved in the Care Inspectorate and before
6 that the Care Commission, is able to guide us through
7 how inspections in this area changed. Is that a fair
8 summary?

9 MS JAMIESON: Yes.

10 MS HAPPER: It is a fair summary. I would also just say
11 that if there are other things that during the course of
12 this morning you feel that you need from the Care
13 Inspectorate I'll take responsibility for making sure
14 that we act on that and then give you that back.

15 LADY SMITH: Thank you very much. That's really helpful.

16 MS INNES: Thank you.

17 You'll appreciate that your evidence is being noted,
18 so whilst of course you're welcome to chip in if you had
19 something to add to an answer that the other has given,
20 please try not to speak over each other, that would be
21 really helpful, thank you.

22 First of all, if I can take you to your report which
23 you prepared for this case study, which is at
24 CIS-000000855, a copy of that is in the folder in front
25 of you and will also come up on the screen.

1 First of all, Helen, if I can start with you,
2 please, and if we can look at page 5, and the context of
3 this report. I think we see there that there was
4 a request from the Inquiry for an updated and reworked
5 version of a previously submitted history of regulation
6 reports from 2017, focusing solely this time on the
7 regulation of fostering services.

8 Then, secondly additional information on current
9 inspection standards, processes and staff training.

10 I think that's a summary of what you were asked to
11 do by the Inquiry, and then I assume you then, with
12 colleagues, put this report together?

13 MS HAPPER: That's correct, yes.

14 Q. Can I just move on please straight into section 2. The
15 Inquiry's already heard evidence about the legislative
16 background. If I can take you to page 6, please, and
17 paragraph 2.5, there it refers to various sets of
18 National Care Standards relating to the range of service
19 types being regulated by the Care Commission were also
20 published by the Scottish Executive at this time. So
21 this was after the foundation of the Care Commission:

22 "The standards set out what people could expect from
23 care services. Providers of care services were expected
24 to comply with the standards and related legislation.
25 The standards that applied to fostering services in the

1 period 2006-2018 were the National Care Standards:
2 foster care and family placement services, commonly
3 known as the pink book."

4 MS HAPPER: That's correct. There were a whole series of
5 books all in different colours and they tended to be
6 referred to by the particular colour of the book.

7 Q. Can we look briefly at the National Care Standards,
8 please. It's at ELC-000001637. I think we can see this
9 is a pink colour. If we go down we can see:
10 "National Care Standards for foster care and family
11 placement services."
12 Revised in March 2005. Is this the document that
13 you're referring to?

14 A. Yes.

15 Q. If we can just go on, please, to page 16 --

16 LADY SMITH: So this is the current version? The 2005
17 version is it, or not?

18 MS HAPPER: We no longer use this. They've been replaced by
19 the National Health and Care Standards, which --

20 LADY SMITH: We may come to that --

21 MS HAPPER: It looks like this.

22 LADY SMITH: For how long did this one apply, the pink one?

23 MS HAPPER: It was from the start of the Care Commission
24 until -- I'm not sure what the date was.

25 MS INNES: I think at the paragraph in your report that we

1 were looking at you say up to 2018.

2 MS HAPPER: 2018, thank you.

3 LADY SMITH: I'm sorry if I pushed that out of order, it's

4 just helpful for my notes to put that in now. Thank

5 you.

6 MS INNES: Sorry, I confused things by going to the wrong

7 page. Can we go to page 19, please.

8 I'm going to this because we looked at this document

9 with Professor Kendrick last week and this is one of the

10 standards that were in place over that period,

11 "Assessing and approving carers, standard 5", and it

12 begins:

13 "You know you will be fully assessed by the agency

14 before being accepted as a foster carer."

15 Then there are various subheadings. Although these

16 are all expressed as "you", are these the standards that

17 the Care Commission and then the Care Inspectorate were

18 using to inspect fostering services?

19 MS HAPPER: Yes. I think Alison, who was actually using

20 them at the time, might be better placed to answer that.

21 MS JAMIESON: Yes, that's what we were using.

22 It might be helpful to note that up to 2018 we were

23 using these as our main tool for inspection, and over

24 the first three years of inspecting fostering services,

25 we looked at all the standards within the pink book, so

1 we had a number that we inspected each year so that over
2 the three-year period we inspected them all.

3 LADY SMITH: Where the standard uses the word "you", which
4 it does quite a lot --

5 MS JAMIESON: Yes.

6 LADY SMITH: -- who is it speaking to?

7 MS JAMIESON: The standards are -- in this one, this is
8 about the child, so you know the assessment approval
9 process, that is for children coming in and using the
10 service. So it's about you know that your foster carer
11 has been assessed.

12 However, throughout the standards in the --

13 LADY SMITH: Hang on, can I just take this one step at
14 a time? This is speaking to children? Is that what
15 you're saying?

16 MS JAMIESON: Yes.

17 LADY SMITH: All right.

18 MS INNES: Helen, do you want to --

19 MS HAPPER: In the pink book there are 13 standards. Of
20 those 13, 4 are directly addressed to the child.

21 MS JAMIESON: Yes.

22 MS HAPPER: Eight are concerned with the foster carer --

23 LADY SMITH: Yes.

24 MS HAPPER: -- and the standard of service being provided to
25 the foster carer.

1 The 13th relates to the management of the service.

2 LADY SMITH: So, sorry, the six are the standards --

3 MS HAPPER: Four are directed --

4 LADY SMITH: Four are addressed to the child.

5 MS HAPPER: -- to the child.

6 LADY SMITH: Six of them are --

7 MS HAPPER: Eight of them are addressed to the carer.

8 LADY SMITH: Sorry.

9 MS HAPPER: And the 13th, the last one, is around management

10 and leadership of the service.

11 LADY SMITH: So who is that talking to?

12 MS HAPPER: It's talking to the provider of the service.

13 LADY SMITH: The agency?

14 MS HAPPER: The agency.

15 LADY SMITH: Using that word to encompass both Local

16 Authority and voluntary agencies.

17 MS HAPPER: That's correct.

18 LADY SMITH: Thank you.

19 MS INNES: Perhaps if we go back just to see the list of

20 standards at page 4.

21 MS HAPPER: That's helpful.

22 Q. I think this is what you were referring to, Helen?

23 MS HAPPER: Yes.

24 Q. The services for children are standards 1 to 4, and

25 there's various headings.

1 Services for foster carers, standards 5 to 12.

2 Then management and staffing, standard 13.

3 MS HAPPER: Yes.

4 Q. Perhaps if we look at an example of each of these, so if

5 we look at standard 1, so page 13, we see the standard,

6 "Informing and deciding":

7 "Standard 1.

8 "The agency makes sure that you have all the

9 information you need about the service and the role of

10 your foster carer to help you and your family decide

11 about using the service."

12 You're saying that the "you" there is directed to

13 the child?

14 MS HAPPER: To the child.

15 Q. Okay. Then if we can go back to the one that we were

16 looking at, so at 19, this is standard 5, "Assessing and

17 approving carers":

18 "You know that you will be fully assessed by the

19 agency before being accepted as a foster carer."

20 There the "you" is the foster carer?

21 MS HAPPER: Yes.

22 May I say something?

23 LADY SMITH: Please do.

24 MS HAPPER: I think this quite quickly gets to the heart of

25 what's a bit different about regulating a fostering

1 service as opposed to another kind of childcare service.

2 In a care home for children, there are kind of two main
3 parties.

4 There's the child, who is very clearly the receiver
5 of the service, the recipient of the care.

6 The care is provided by the staff who are employed
7 in that service.

8 In a fostering service, there are three parties.
9 There is the foster carer, who is not an employee of the
10 service, and that's quite a controversial area, because
11 I'm aware there is a school of thought that we'd argue
12 that carers ought to be employees, but at the moment
13 they are not employees, so a fostering service is
14 providing a service to the carers as well as to the
15 child.

16 Certainly from the pink book, there were twice as
17 many standards relating to the carer as there were
18 directly addressed to the child.

19 The new health and care standards -- the "new",
20 2018, they still feel new.

21 LADY SMITH: It's not long ago.

22 MS HAPPER: Has tried very much to make sure that that's all
23 written in the language of the person experiencing the
24 care, but within a fostering service there is an added
25 layer of complexity because of the third party.

1 I hope that makes sense and really gets to the heart
2 of some of the issues --

3 LADY SMITH: Absolutely, thank you very much for that. It
4 very neatly explains the challenges of you providing the
5 service and support that you need to provide to
6 a tripartite relationship, rather than the provider and
7 the child alone --

8 MS HAPPER: Yes.

9 LADY SMITH: -- and they're all physically in one place or
10 if it's one provider that has several institutions, it
11 may be several places but one will be very similar to
12 the next. I can see that.

13 MS INNES: Thank you.

14 We can move away from the pink book at the moment
15 and if we move back, please, to your report, I think you
16 deal with the issue of who you're inspecting just
17 a little further on in your report. If we can move on,
18 please, to page 8. You record there the definition of
19 a fostering service as it's set out in the legislation,
20 so it could be provided by a Local Authority or it could
21 be provided by another organisation, and we'll come back
22 to that issue in a moment.

23 MS HAPPER: (Witness nodded)

24 Q. I think at paragraph 3.2.2 you note what you've just
25 being saying there, that the role in a regard to

1 fostering agencies is different to other care homes, for
2 example, you talk there about care homes for children.

3 MS HAPPER: (Witness nodded)

4 Q. So the service user is different.

5 MS HAPPER: It's more complicated.

6 Q. Yes.

7 If we can move through your report, we'll come back
8 to the issue of the other organisations just in a moment
9 as it arises in your report, but at section 3.3 you've
10 provided us with some information as to the number of
11 organisations that you are inspecting.

12 If we go to page 10, you've provided some graphs
13 there, the number of fostering services by sector
14 between 2012 and March 2021. I assume that you've used
15 2012 because that's during the time of the Care
16 Inspectorate as opposed to the prior period.

17 MS HAPPER: Yes.

18 Q. We see there in the graphs that under Local Authority
19 initially there were 33 providers and then down to 32.
20 Are you able to explain why that is?

21 MS HAPPER: I think it's because a Local Authority had two
22 separate services registered. I'm not sure which Local
23 Authority that was.

24 Alison, I don't know if you know?

25 MS JAMIESON: I couldn't recall what that was. I was a bit

1 confused by that, given we have 32 Local Authorities.

2 LADY SMITH: Well, exactly.

3 MS HAPPER: One de-registered. I'm pretty sure it was that

4 there was a Local Authority -- it would be a historical

5 issue and fairly quickly after the formation of the Care

6 Inspectorate they de-registered a service.

7 MS INNES: Then you have a heading, "Private", what do you

8 mean by that?

9 MS HAPPER: My understanding is that there were some private

10 organisations that were legacy organisations from

11 previous days to the Care Inspectorate that were then

12 de-registered or taken into voluntary or not-for-profit.

13 Q. Okay.

14 MS HAPPER: I think the data that we hold may not be

15 complete because of the services -- when we inherited

16 information from the Care Commission, there was

17 a rationalisation of that information. It would be hard

18 to verify, I think, some of the data from pre-2011, and

19 it would have been reported in 2012, that would be the

20 end of the first year of reporting, which is why 2012

21 was a significant date.

22 LADY SMITH: Could I just check, that figure of 27 voluntary

23 or not-for-profit providers then, were they actually

24 still operating at the end of 2020 or were they still

25 registered?

1 MS HAPPER: No, on 31 December 2020 there were 59 services
2 registered and operating.

3 LADY SMITH: Registered and operating?

4 MS HAPPER: Registered and operating, so that's 32 Local
5 Authority and 27 voluntary.

6 This is actually a very stable sector, compared to
7 the care home sector, which fluctuates much more.

8 LADY SMITH: Thank you.

9 MS INNES: Thank you. You refer again at paragraph 3.4 to
10 not for profit, and we will come back to that.

11 If we go over the page to page 11, we see a graph
12 there:

13 "Percentage of graded fostering services graded good
14 or better by sector (excluding private)."

15 Over the period. Below that, I think you explain
16 the range of figures. So 3.4.2:

17 "Most fostering services are evaluated at inspection
18 as good or very good."

19 Then at 3.4.3:

20 "In 2012, 81.8 per cent of Local Authority fostering
21 services were graded good or better, and 95.7 of
22 voluntary or not-for-profit fostering services were
23 graded good or better."

24 Then at 2021 you've noted 78.1 per cent of Local
25 Authority fostering agencies were graded good or better,

1 and 92.6 per cent of voluntary or not-for-profit
2 fostering agencies were graded good or better.

3 There's obviously a gap there between the grading,
4 it appears, from Local Authority services -- as between
5 Local Authority services and voluntary services. Do you
6 look into the reasons for that at all?

7 MS HAPPER: The gap may appear a bit bigger than it is,
8 because we're talking about a small number of services,
9 a relatively small number of services, so percentage
10 changes seem greater with that, so that's one of the
11 kind of caveats for that.

12 I can explain the change that there's been, and that
13 has been around four services, one of which a grade was
14 reduced from good to adequate in two of the domains that
15 we were looking at, care and support and management and
16 leadership. And a further three, which were downgraded
17 from good to adequate in the management and leadership
18 domain.

19 Q. Okay.

20 MS HAPPER: So the change is accounted for by a change in
21 four services.

22 It is correct that the Local Authority services are
23 performing less well percentage wise than the voluntary
24 or not for profit.

25 Q. Are you able to sell us which of the services were the

1 four that you referred to that had caused the issue?

2 MS HAPPER: Yes, that's in the public domain. The service
3 that was reduced by two grades was Clackmannanshire.
4 They're all Local Authority fostering services. That
5 was also reduced in management and leadership.

6 The other three I think were West Lothian, Dumfries
7 and Galloway, and -- I may have to come back to you.
8 I'm guessing, I would like to be sure, but I can
9 certainly provide that information about the fourth one.
10 Definitely West Lothian and Dumfries and Galloway. I'll
11 come back on the fourth one.

12 Can I just make a note of that?

13 Q. Yes.

14 MS HAPPER: I'm sorry, I was wondering whether -- did you
15 ask me whether we knew why we thought that Local
16 Authorities were performing less well --

17 Q. Yes. Could you establish any reasons for that?

18 MS HAPPER: It's very hard to be absolutely certain. There
19 are a lot of pressures on Local Authorities. We know
20 that particularly in the last few years there's been
21 a reduction in training resource available, management
22 capacity is very stretched in Local Authorities, and
23 that's an increasing trend where managers have larger
24 and larger remits and that's for money saving. We think
25 that those will be the reasons that would explain that.

1 That's within the context of these are services that
2 in general perform well. That's a good profile compared
3 to a number of other slices of the sector.

4 I don't know if, Alison, you have anything else you
5 would like to say about that?

6 MS JAMIESON: I think one of the things we've started to see
7 in recent inspections is I think it's always been
8 a sector where there's less staff turnover in terms of
9 social work staff working in agencies, it seems to be
10 a job that people stay with because it's a very
11 rewarding job.

12 I think we started to see a little bit of change in
13 Local Authorities around that, with more staff turnover
14 than we've seen before, and possibly less -- or
15 continued long-term staffing in the independent sector.
16 But I think it's too early to tell if that's a theme,
17 but we think that might be an emerging theme from what
18 we're hearing and seeing at the moment.

19 Q. Okay, thank you.

20 MS JAMIESON: That can have an impact in terms of new staff
21 coming in that require to be trained in the sector, so
22 you know that they're learning that new role. And
23 sometimes staff turnover can be management, and where
24 management support and knowledge is less, sometimes you
25 can see outcomes and systems not performing quite as

1 well.

2 But I would agree with Helen that as a sector as
3 a whole, in terms of comparing it to other children's
4 services, it is still the sector that is performing very
5 well.

6 Q. Thank you.

7 I wonder if I can look back at a document with you
8 that gives us an overview of an earlier period. It's at
9 CIS-000000830. If we just scroll down a little, I think
10 we can see that this is a document called:

11 "Improving the quality of care in Scotland.
12 An overview of Care Commission findings 2002 to 2010."

13 So obviously a period before the one that we've just
14 been looking at. I wonder if I can take you straight,
15 please, to page 111, which is in the middle of a section
16 about fostering. It's noted there that there are areas
17 of strengths and examples of good practice are noted.
18 At that time there's reference to legislation, the 2007
19 Act that had come in.

20 "Foster children and foster carer families have
21 found staff to be very supportive ... foster carers and
22 adoptive parents remain generally positive about the way
23 agencies prepare, assess and support them. Services are
24 working on ensuring that foster carers are kept up to
25 date and given key information ..."

1 Then there's reference to adoption agencies in the
2 final bullet point.

3 This report seems to draw together some positives
4 over that period of time. It seems to have been
5 a previous review; is that right?

6 MS JAMIESON: Yes.

7 Q. If we go over to the next page, page 112, we see
8 a heading, "Areas for improvement", and it's noted
9 there:

10 " ... some services need to make the following
11 improvements."

12 The first bullet point:

13 "Greater effort is needed to ensure the views of
14 children and young people are recorded and suggestions
15 are acted on."

16 The second bullet point:

17 "Consultation with birth families should be
18 considered to ensure that any lessons for practice are
19 considered and appropriate action taken.

20 "Improvements are needed to the system for
21 undertaking checks, assessments and monitoring
22 situations where adult members of a foster carer's
23 household are taking part in the day-to-day care of
24 foster children, but are not themselves approved as
25 a foster carer."

1 Then there's reference to adoption panels again in
2 the final bullet point.

3 Again this seems to draw together certain areas for
4 improvement at that time. Are these areas in which you
5 see ongoing issues or have these improved over time?

6 For example, if we take the first one, ensuring the
7 views of children and young people are recorded?

8 MS JAMIESON: I think that we've seen improvement across the
9 sector in terms of that, particularly with the emphasis
10 from the Promise that young people and children's views
11 are really important. We've always thought that, but
12 I think that's been emphasised even further and I think
13 agencies are taking account and working hard to ensure
14 that they're doing that.

15 Q. Then the next bullet point is about consultation with
16 birth families. Is that an area where there's been
17 change?

18 MS JAMIESON: Yes. I'm not aware from recent inspections
19 that that has been a concern that we've had, and again
20 the Promise is asking that we consider families and that
21 we work with families, and again I think that's an area
22 that agencies are paying a lot of attention to.

23 Q. Then the next point is about the system for undertaking
24 checks, et cetera, in respect of adult members of
25 a foster carer's household. Is that something that has

1 changed or improved?

2 MS JAMIESON: Yes, I think we're understanding the
3 importance of relationships for children, not only with
4 the foster carers but with the families that they're
5 placed in. There's less emphasis -- I think it is now
6 seen as preferable if family members can babysit or
7 provide respite rather than other carers who the
8 children don't know. So there has been work done in
9 relation to that and ensuring that where adult family
10 members are able to support the care-giving family, the
11 foster carer, that that is something that can work very
12 well.

13 Q. Helen, is there anything that you would like to add to
14 those points?

15 MS HAPPER: Really only to say that I think there is
16 a tension around between ensuring safety and ensuring
17 that children have as normal a family experience as
18 possible. I know that that's a tension that is felt by
19 colleagues in service delivery in Local Authorities and
20 in other organisations, about how to make that balance.
21 It's something that the Promise talks about very
22 powerfully, about the need for normality and the need
23 for -- young people don't want everybody to be checked.
24 They want to be able to go and have sleepovers with
25 friends and so on and they find children who are in

1 public care have complained a lot about feeling that
2 they're stigmatised and disadvantaged because they're
3 not able to do that. Yet we also know that children are
4 very vulnerable and that we have to say that there are
5 other steps that are taken to create safety.

6 But I think there is a tension around for that for
7 children and young people, definitely.

8 LADY SMITH: Children are not always the best judges of the
9 extent of their own vulnerability.

10 MS HAPPER: They're not.

11 LADY SMITH: They may be wholly unaware of that.

12 MS HAPPER: Yes.

13 LADY SMITH: Particularly if they're a child in care.

14 MS HAPPER: Yes.

15 MS INNES: Thank you for going through these points. If we
16 can go back to the report again, please, CIS-000000855,
17 page 12. At this point you're discussing the
18 registration process. If we go down to paragraph 3.5.3,
19 you say:

20 "All registered services were required to comply
21 with the ... 2001 Act and associated regulations ...
22 however usually no other legislation is referred to in
23 the conditions of registration ..."

24 But you note:

25 "For both fostering and adoption services, a number

1 of processes required in providing the services are laid
2 down in other legislation and regulations. As a result,
3 the Care Commission deemed it necessary to ensure
4 compliance with these by placing the following condition
5 on all fostering services' registrations."

6 Then we see the condition there, which refers to
7 other legislation and regulations. This was at the
8 start in the Care Commission, is that something that
9 still continues, obviously updating in terms of
10 legislation?

11 MS JAMIESON: Yes. Yes, it does.

12 Q. If we move over the page to page 13, please, we see the
13 heading, "Not for profit". You note:

14 "Section 59 of the ... 2010 Act provides that
15 a person who provides an adoption service or a fostering
16 service must be a voluntary organisation unless the
17 provider is a Local Authority."

18 Then you go on at 3.6.2 to refer to the definition:

19 " ... a voluntary organisation is 'a body, other
20 than a public or Local Authority, the activities of
21 which are not carried on for profit'."

22 Then below that you have a heading, at the next
23 paragraph, 3.6.3:

24 "Not-for-profit status is determined by ..."

25 You have certain matters highlighted there, which

1 we'll look at in a little bit more detail.

2 When an agency registers with you, is this something

3 that requires to be checked by you?

4 MS JAMIESON: Yes. Yes, it is.

5 Q. Okay. Therefore when we look at what you've set out in

6 3.6.3 and you say, "Not for profit status is determined

7 on the following basis", is that internal guidance that

8 you have that you then apply?

9 MS JAMIESON: Yes. During the registration process we would

10 ask the applicant for evidence that they understand that

11 and that they have that firmly set out in their

12 memorandum of association, that they understand that

13 providing such a service means that it is non profit

14 making.

15 Q. You obviously have the terms of the legislation, it

16 needs to be not for profit, and then internally you have

17 various routes, I think, by which you assess that?

18 MS JAMIESON: Yes.

19 Q. The first of those is registration as a charity, you

20 note there. If an organisation is registered as

21 a charity, that satisfies the requirement as far as

22 you're concerned. Is that right?

23 MS HAPPER: Yes.

24 MS JAMIESON: It does, and we would check that registration.

25 Q. Yes. Then, "Aims and objectives", you say:

1 "Fostering agencies, as is the case for all
2 registrable services, must provide the Care Inspectorate
3 with a statement of the aims and objectives of the
4 service. The stated aims and objectives are also stated
5 within the service's memorandum and articles of
6 association or equivalent documentation."

7 You then go on to say if it's a company, you would
8 look at the memorandum and you would be looking within
9 that to see that it provides that the aims are not for
10 profit.

11 MS HAPPER: (Witness nodded)

12 Q. I think that's what you just mentioned a moment ago.

13 MS HAPPER: (Witness nodded)

14 Q. You then say:

15 "Not for profit is not determined by an inability to
16 make profit, but by the purpose for which the funds are
17 utilised."

18 If you have an organisation that's not registered as
19 a charity and they're not set up as a company and
20 therefore there's no memorandum, what sort of evidence
21 do you look for?

22 MS JAMIESON: They should clearly state that in their aims
23 and objectives, and we would be speaking to them at the
24 point of registration about how they will be investing
25 any profit they make into the service. We see that

1 being used for training, for recruitment, for other
2 services a fostering agency may bring in to support the
3 work that they're doing with foster carers and children,
4 so there could be some psychological services, for
5 example, that were purchased to improve outcomes for
6 children.

7 So it's a range of things that they identify that
8 they need in order to provide a good quality service
9 that meets the needs of the individual children and the
10 foster carers that they're supporting.

11 Q. I'm going to go on to ask some further questions about
12 this area, but in terms of the way in which you assess
13 not for profit, is there anything that you want to add
14 to that, Helen?

15 MS HAPPER: No, not at that stage.

16 Q. Okay.

17 You do, I think, come back to the issue of not for
18 profit at the end of your report and if we can just move
19 on to that, I think it's page 66. Yes. Page 66:

20 "The 'not for profit' prerequisite."

21 You say there what you've just said:

22 "The Care Inspectorate seeks assurance at the point
23 of registration that fostering services understand that
24 they may operate on a not-for-profit basis.

25 Occasionally, suspicion that profit is being made may

1 arise in respect of some independent services, where the
2 registered service is a branch of a non-Scottish
3 company ..."

4 Is the position different in England, for example?

5 MS JAMIESON: Yes.

6 LADY SMITH: Because the not-for-profit constraint doesn't
7 apply south of the border, does it?

8 MS JAMIESON: That's correct.

9 LADY SMITH: I think there were some observations about that
10 and the difference between Scotland and England in the
11 interim report of the Competition and Markets Authority
12 on the provision of children's services that was --
13 October last year I think it was published.

14 MS HAPPER: Yes.

15 MS INNES: The report that her Ladyship has just mentioned,
16 did you have some engagement with at the time they were
17 investigating --

18 MS HAPPER: We did, yes. The focus of that discussion was
19 around the not-for-profit issue. I have to say that
20 care homes was a bigger source of discussion than
21 fostering services --

22 LADY SMITH: Of course.

23 MS HAPPER: -- but we did have quite a lot of input to that
24 report. And we'll continue to work, I think, on that.

25 LADY SMITH: Sorry, I don't really want to go down a rabbit

1 hole but while it's fresh in my mind, did you get the
2 impression that in practice it makes very much
3 difference in the fostering care area as between
4 Scotland and England?

5 MS HAPPER: I'm sorry, what makes a difference?

6 LADY SMITH: The existence of there being no not-for-profit
7 constraint in England but there being a not-for-profit
8 constraint north of the border?

9 MS HAPPER: Personal opinion? I think it changes the tenor
10 of how care is seen. There is a very strong distaste in
11 Scotland for a concept of people -- of companies making
12 profit from the care of children, which doesn't extend
13 in the same way to care for adults and older people.

14 It's quite hard to describe, but in the discussion
15 with colleagues south of the border it feels that the
16 difference is that it changes the tone somehow of how
17 care is seen, rather than a direct link to whether
18 services are better or not so good.

19 LADY SMITH: I see.

20 I suppose, given that there are providers who
21 operate throughout the UK in different vehicles, I'm
22 sure, it maybe doesn't hold people back, and of course
23 as you've already observed, a company can qualify as
24 being voluntary for the purposes of the Scottish
25 legislation, even if it makes a profit. The question is

1 what do you do with your money?

2 MS JAMIESON: Yes.

3 MS HAPPER: And --

4 LADY SMITH: Like many charities, they will need to charge,
5 they will need to get income coming in from selling what
6 they do.

7 MS HAPPER: It's a source of great discontent on the part of
8 Local Authority colleagues, who feel that sometimes they
9 are paying enhanced rates for services which is going
10 into a UK-wide company and supporting an infrastructure
11 that supports 90 per cent of services which operate in
12 another part of the country and are not operating in
13 Scotland.

14 That said, having worked in a UK-wide charity in the
15 past, I'm aware that you need an infrastructure in any
16 organisation to work and to work well, and a good IT
17 system enhances your work, makes it more efficient, you
18 can't operate without it. So that becomes part of the
19 organisation and it's part of the cost of the
20 organisation. But if 90 per cent of your business is
21 south of the border, I can understand why a hard-pressed
22 Local Authority in Scotland is saying, "I'm paying a lot
23 of extra money for this placement and yet there's some
24 of that charge of the placement will be spent on
25 something that doesn't benefit children in my area".

1 It's a very complex discussion, really.

2 LADY SMITH: Thank you.

3 Sorry, I'll pull you back out of the rabbit hole

4 I promised I wasn't going to take you down.

5 Ms Innes.

6 MS INNES: You say there when you talk about registration

7 that sometimes you have to look into it a little bit

8 more, but you say:

9 "The Care Inspectorate is limited in the action it

10 can take, although this may be addressed if proposals to

11 give the Care Inspectorate greater responsibilities in

12 respect of market oversight in the context of a national

13 care service are progressed, and if children's services

14 are included in a national care service."

15 You say:

16 "At present, we may make requirements in respect of

17 the individual service if we identify issues in relation

18 to lack of investment which is impacting on the quality

19 of care for young people or quality of support to foster

20 carers."

21 Can you explain a little bit more about that,

22 please?

23 MS HAPPER: Once the service is registered and operating, if

24 there are suspicions that, you know, profit is being

25 made and it's not going into the kinds of things that

1 Alison spoke about, the infrastructure, the training and
2 support, we have questions about that. It's very hard
3 to prove and we are limited in what we can do about
4 that.

5 At the time that this report was written, the
6 consultation FOR the national care service put in
7 a question around whether the Care Inspectorate might
8 have a greater role in market oversight and that would
9 then give a range of powers to the Care Inspectorate
10 that we don't have currently. Those consultation
11 results are not yet out and the proposal hasn't yet been
12 announced as to what's been taken on and what isn't, so
13 I'm not sure where we would be with that.

14 Even if that were the case, the proposal still
15 hasn't clarified whether children's services will be
16 part of a national care service anyway. But if that
17 were to happen, it might give us greater powers to take
18 action. If that were the case.

19 Q. From what you're saying at the moment you would ask
20 questions around this or about this at an inspection?

21 MS HAPPER: Yes.

22 Q. But the extent to which you can then take action is
23 limited, is that the position?

24 MS HAPPER: Yes.

25 Q. Okay.

1 If we can move on from that particular issue and if
2 we can look at more of the history of how inspections
3 have evolved. Alison, perhaps if I can direct these
4 questions to you in the first instance.

5 At paragraph 4.1.1, on page 15, you note there that
6 before the creation of the SWIA on 1 April 2005, there
7 was no other regulatory body responsible for inspection
8 of fostering services. You note that it had
9 responsibility for scrutiny of social work services:

10 "Examination of fostering services provided by each
11 Local Authority was carried out within the performance
12 inspections of Local Authorities' social work services
13 and reported accordingly."

14 Initially fostering services themselves weren't
15 being inspected, it was just the social work
16 department --

17 MS JAMIESON: That's right.

18 Q. Then at 4.1.2 you say:

19 "Fostering services became subject to inspection ...
20 from the latter part of 2006 onwards."

21 MS JAMIESON: That's right.

22 Q. The next paragraph, 4.1.3, you refer to the structure of
23 the Care Commission at that time and there were generic
24 local teams. I think, Alison, that's what you said in
25 your evidence earlier, that you had started working in

1 a generic team. Is that right?

2 MS JAMIESON: That's right.

3 Q. That would include fostering services and other

4 services, care homes and suchlike?

5 MS JAMIESON: It was at the point where we registered

6 fostering services that we saw that as a different type

7 of service, being an agency and having two different

8 service users, if you like, and also the fact that it's

9 a very specialist area, quite complicated in terms of

10 legislation and that inspectors really needed

11 a knowledge and background to be able to inspect.

12 It was actually at that time although we had generic

13 teams that we felt we needed a discrete team of

14 inspectors with the right qualifications and background

15 to inspect. That was really the start of the first

16 national team within the Care Commission at that time.

17 Q. I suppose we'll come onto it, but even conceptually

18 going into a Care Home, for example, and carrying out

19 an inspection is different to inspecting a fostering

20 service that might be scattered over various Local

21 Authority offices and teams, for example.

22 MS JAMIESON: Yes. Some of the independent sectors cover

23 a wide geographical area and that was also -- it was

24 felt that it was efficient to have a team that could

25 also cover that area of inspection.

1 Q. If we go on to the next page at paragraph 4.1.4 you
2 refer to the need for -- it was a specialist area of
3 work and you say:

4 "These inspectors met specific criteria (they were
5 social workers who had worked in fostering services or
6 had experience of fostering when working in a locality
7 social work team)."

8 It appears from this that what you were looking for
9 at the time was experience in fostering itself rather
10 than anything else?

11 MS JAMIESON: That's right.

12 Q. Has that continued to be the case or has that changed?

13 MS JAMIESON: It has continued to be the case.

14 Q. If, for example, you were a teacher, you would have
15 experience in dealing with children but would you not be
16 somebody who could be appointed as an inspector in the
17 fostering team?

18 MS JAMIESON: I think it's about the complexities around
19 assessment and the processes around fostering, so
20 understanding the remit of the fostering panel, the role
21 of the agency decision-maker, that's something different
22 to the systems that you have in a Care Home, for
23 example.

24 We're still working with the Children's Hearing
25 system for looked-after children and fostering, but

1 there are other systems around that that we felt that
2 inspectors needed to understand.

3 I'm not saying that if you had been a social worker
4 or a teacher working in a different area that you can't
5 learn those things, but I think having actually worked
6 through those processes and understanding the depths of
7 assessment and the checks and balances around fostering,
8 we felt that that was an advantage.

9 It's also, to be honest, a small sector within
10 Scotland, and we were finding that the providers and
11 people working in fostering services were curious about
12 our qualifications and, you know, in terms of carrying
13 out inspection.

14 Q. I suppose the counter argument to the need for
15 a specialist inspector would be that they don't have the
16 necessary degree of independence, so you have people who
17 are working in a relatively small sector jumping ship
18 and inspecting the type of work that they used to do.
19 Do you have any comment on that?

20 MS JAMIESON: I think that's true for all the services we
21 inspect. We have inspectors who have worked in
22 residential, for example, who again are inspecting
23 something that they used to work in. That's not unusual
24 in the Care Inspectorate. Because what we're looking
25 for is people who have the experience and the depth of

1 knowledge and the management skills, because we look for
2 inspectors when we're recruiting that have managed
3 services, because we believe that in doing that they
4 have the knowledge and the background to inspect.

5 So I think that is the same for fostering.

6 We wouldn't allocate a service to an inspector where
7 they had worked, you wouldn't be inspecting a service
8 that you'd worked in. So when we're allocating we make
9 sure that is the case, because that could potentially be
10 a conflict of interest.

11 Q. Yes. Do you have anything to add to that issue, Helen?

12 MS HAPPER: We're employing inspectors and nobody comes in
13 as an inspector and knows how to do the job from day 1
14 unless you've been an inspector somewhere else. It is
15 quite unique. We recruit with that in mind and
16 certainly when we're recruiting we are looking for
17 people who are able to ask the right questions,
18 understand ambiguity, take a lot of complex information
19 and understand and make sense of that, and hold
20 different perspectives in their head at the same time,
21 not rushing to judgement, but with the professional
22 confidence to be able to reach judgements.

23 We're looking for people and we will train people
24 with a view to them asking searching, probing questions,
25 asking the "what if" questions and so on. That's the

1 skill of a good inspector.

2 It's possible to have that from any background, but
3 my personal view -- I might say this because I am
4 a social worker -- is that a lot of the skills that you
5 use as a social worker are the skills that make you
6 a good inspector.

7 The question is: does that mean that we have
8 inspectors who are more oriented to understanding the
9 perspective of the person delivering the service,
10 because they used to be that person, perhaps not long
11 ago they were that person, managing that shift at work
12 or dealing with that difficult question? Then yes,
13 of course, that's always a potential risk and that's why
14 supervision of staff and access to managers, people
15 working in teams and using peer support to check out
16 those things is important.

17 We are always on a mission, and certainly -- I mean
18 since the production of the Promise and our commitment
19 to keeping the Promise, we are very strongly trying to
20 make sure we put in all the support we can to make sure
21 that our inspectors are as oriented to understanding the
22 child's experience and how the child is experiencing the
23 service as we can be.

24 LADY SMITH: Helen, can you give me one or two examples of
25 the social work skills that you think helped make you

1 a good inspector?

2 MS HAPPER: Social workers have to be incredibly curious
3 about people's lives and about what makes things happen,
4 what's going on, why does that happen? We're always
5 looking for the exception, you know, the time when
6 people didn't fail at something but actually succeeded.
7 What underpins that? That kind of curiosity is
8 absolutely what you need in inspection, because we're
9 not going in telling people, "This is the recipe and
10 this is what you do", we're there to try to draw out why
11 things happen, what's underpinning, what underpins
12 success, if something's gone wrong, what are the factors
13 that were not in place that allowed that wrong thing to
14 happen or that mistake to happen? So that's one thing.

15 The other thing that is really important is you need
16 to be able to communicate and engage with people at all
17 levels. An inspector on any inspection may be speaking
18 to a very senior manager at a provider, they may be
19 speaking to staff who are delivering the service and
20 they're speaking to children, to families, a whole range
21 of people, and you have to be able to communicate across
22 the board with those people and that's a social work
23 skill set too.

24 LADY SMITH: Thank you. That's very helpful.

25 MS INNES: You mentioned teams there -- I realise we're

1 moving on to some things that maybe come up a little bit
2 later, but just going with this at the moment. If
3 somebody is undertaking an inspection of a fostering
4 service, how many inspectors would usually do it? Would
5 it ever be one on their own or is it always more than
6 one person?

7 MS JAMIESON: It depends on the size of the service. We
8 have some very large fostering services and we have some
9 very small ones. For example, a service where we maybe
10 have three foster carers, so in that situation, putting
11 in more than one inspector would probably be too big
12 a burden and not -- unless we have concerns, but usually
13 we would have one inspector for that service.

14 So it depends on the size.

15 Where it's a Local Authority or an independent
16 provider who have an adoption service, we would have
17 a lead inspector for both of those inspections and they
18 would work together, because there's a lot of crossover.
19 The manager issues are the same, the staff is often the
20 same, the policies and procedures are often the same.
21 So they would work together across those two service
22 types.

23 If it's a large provider, we have a very large Local
24 Authority where we would have a team of inspectors
25 inspecting, because they have a number of fostering

1 teams that carry out slightly different roles within
2 fostering. You might have a respite team,
3 a short-breaks team and a fostering team. It's
4 an assessment of what it is we need to do and how many
5 staff we need to complete it.

6 Q. When your colleague gave evidence at a previous stage in
7 the Inquiry, there was mention of lay inspectors or lay
8 assessors. Are such people used in the fostering
9 service or not?

10 MS JAMIESON: We haven't used lay assessors in fostering.
11 We've discussed it, it's still something that we're
12 considering: would that be helpful? A lot of the
13 inspection -- we look at a lot of process, so it's
14 difficult to say how a lay inspector would be involved
15 in that.

16 I think they could have a role in speaking to foster
17 carers.

18 While we haven't done it, it's certainly something
19 that's still in discussion potentially for the future.

20 Q. Perhaps she may have mentioned that in other sectors,
21 for example a care-experienced young person might fulfil
22 that role and speak to other young people.

23 MS JAMIESON: Mm-hmm.

24 Q. Am I understanding that that would be in a residential
25 care home setting for children? Would that be

1 an example of where such a lay assessor would be used?

2 MS JAMIESON: That's right. We have young inspection

3 volunteers. We have lay assessors, that tends to be

4 people who are primarily working in adult service

5 inspections, and we have young inspection volunteers who

6 will accompany us into care homes, for example. Again,

7 we haven't used them in fostering, but it is something

8 we are discussing with the lead for young inspection

9 volunteers.

10 It's certainly something that was quite high on the

11 agenda before the pandemic because we are quite keen and

12 we know the value of young inspection volunteers in

13 speaking to young people and it is something we would

14 like to consider and think about how we would use them

15 in our inspections.

16 So it is something we're looking at.

17 Q. Okay. Thank you.

18 Can we look on, please, to paragraph 4.1.5, where

19 you talk about quality assurance. Not only do you have

20 the inspection team, but there's some level of quality

21 assurance. How has that worked over time?

22 MS JAMIESON: When we were referring to quality assurance at

23 this point in the report, we were looking at this as

24 a new area of inspection, a new team that we had brought

25 together to be a national team. We were very keen -- as

1 we are in all inspections -- to make sure that practice
2 and consistency was there throughout every inspection.

3 In the early stages of us inspecting fostering
4 services, myself and another team manager would look at
5 every inspection report in order to check for
6 consistency in terms of areas for improvement or
7 recommendations we were making at that point or
8 requirements.

9 We were also meeting regularly with the inspection
10 team at that point to talk about practice issues, so
11 that we were clear that we had an understanding of what
12 those issues were in terms of what we were finding,
13 because we hadn't inspected fostering before, and also
14 from doing that to identify any potential training that
15 inspectors might require inspecting these services.

16 Q. Okay. At that time that was within the fostering team.
17 Was there any discussion with people in other teams to
18 ensure consistency across the board?

19 MS JAMIESON: Yes, the team managers looking -- you know,
20 doing the quality assurance for fostering would be
21 quality assuring reports and practice in other areas of
22 the work we do. So there are links because it was the
23 National Care Standards we were using, they're
24 a different set of standards but applying them was
25 applied in a similar way and the making of requirements

1 was done in the same way. We needed to make sure across
2 the organisation that there was a consistency of
3 approach in terms of how we were carrying out
4 inspections.

5 Q. Has that changed over time? The process of quality
6 assurance?

7 MS JAMIESON: We have gone through a series of different
8 ways of quality assuring reports. We reached a position
9 where team managers would look at reports that had
10 a grade of 1 and 2, because clearly -- that's weak and
11 unsatisfactory --

12 Q. Okay.

13 MS JAMIESON: -- because clearly we would be making a number
14 of requirements. A grade of weak and unsatisfactory is
15 a concern for us. And also for a service receiving
16 those grades, because we know it has potentially some
17 implications. So we quality assured those reports and
18 we quality assured reports that were graded excellent,
19 because excellent is a very high bar and we want to make
20 sure that that remains the high bar, and, you know, it
21 is an area where we are highlighting exceptional
22 practice. So quality assurance around that is that it
23 is indeed exceptional practice.

24 We have, however, over time realised that those
25 inspections that are grading from adequate to very good

1 we perhaps did not have such an overview in terms of
2 benchmarking, so we've now moved to a position where we
3 are sampling a range of reports with a range of
4 outcomes, to ensure consistency right across the grading
5 system.

6 Q. When you say sampling, how do you identify a sample?

7 MS JAMIESON: Each team manager has their own team of
8 inspectors within a wider team. So in children and
9 young people's services, for instance, we have three
10 team managers. So there's three teams of inspectors,
11 with an average of eight inspectors in each team. So we
12 will sample -- and sometimes it depends. It's not the
13 same for every inspector. So a new inspector that has
14 just joined a team, we will be sampling all inspection
15 reports to begin with, and then we will make a judgement
16 as to how many we need to sample going forward.

17 For the experienced inspectors in my team, I would
18 be sampling -- we are -- I still am sampling the grades
19 of -- well, I'm looking at all, I'm not sampling, I'm
20 still looking at all the grades of weak and
21 unsatisfactory because of the level of concern and risk
22 around those services and I need to know about that in
23 terms of future work we might be doing with services.

24 Then I will sample -- I'll agree with the inspector
25 how many I will sample of their other reports throughout

1 the year.

2 Q. Okay. Presumably you look at the -- do you look at

3 these reports before they're issued?

4 MS JAMIESON: Yes, I look at them at the draft stage. Once

5 they're completed and they're in draft.

6 Q. Okay.

7 At 4.1.6 that we can see there, at the beginning of

8 the Care Commission, you noted that the frequency for

9 inspection was a minimum of one inspection in

10 an inspection year.

11 MS JAMIESON: (Witness nodded)

12 Q. I think that has changed since, and we'll come back to

13 that.

14 MS HAPPER: Yes.

15 Q. If we can move on, please, to page 17, and here you're

16 dealing with the inspection year 2006 to 2007 and you

17 say that since then:

18 " ... all care providers were asked to

19 electronically complete an annual return."

20 Can you explain what the purpose of that is?

21 MS JAMIESON: The annual return at that stage was -- we know

22 that some of the best -- improvement really does require

23 on a service being able to evaluate how they are

24 performing. They need to understand their own

25 performance, to be able to identify their own strengths

1 and areas for improvement. Because if they're able to
2 do that, they can then put things in place to address
3 those improvements that they need to make.

4 In terms of National Care Standards at that point,
5 we had an annual return that asked all providers to
6 assess themselves against every standard in their
7 specific National Care Standard suite. They had to
8 submit that to us every year prior to inspection. We
9 would look at that as part of inspection. That was
10 a very helpful document in terms of looking at their
11 development plan and where they thought they were in
12 terms of their own performance, in terms of grading
13 because they did at that point give themselves a grade.

14 We used that as part of the planning process for
15 inspection, but it was only one thing.

16 LADY SMITH: What was the reaction to being asked to
17 complete annual returns?

18 MS JAMIESON: It was quite a big task, actually, because we
19 were asking them to evaluate against every standard, and
20 some standards have more than the pink book standards,
21 so it was a big piece of work.

22 If they had already been doing that in terms of
23 having a development plan that was looking at
24 performance, I think that was quite helpful. But they
25 did comment to us actually that this was quite a burden

1 in terms of time, which is why we changed things later
2 on because we heard that and we changed our methodology
3 going forward.

4 LADY SMITH: I wondered whether, particularly in the case of
5 some of the smaller Local Authorities, they felt it was
6 a disproportionate burden for them to bear.

7 MS JAMIESON: Yes, I think they did.

8 LADY SMITH: Thank you.

9 MS INNES: You've mentioned that that changed over time, can
10 you again give us an overview of how it changed?

11 MS JAMIESON: Yes. So we also found there was a theme
12 emerging where we were asking providers to do that, that
13 a lot of what they were providing us with was not
14 actually what was happening in the here and now, it was
15 their ambition for the future. So it was a process that
16 actually was not adding great value to the inspection,
17 because we were finding in inspection that they would
18 tell us things about things that actually that was
19 planned for at some point in the future, and sometimes
20 because if they had a lot of improvement to do that
21 could be well into the future, but they were often
22 grading themselves in terms of that. We were finding
23 there was a disconnect in terms of what they were
24 evaluating and we were evaluating. And it wasn't
25 helpful and I don't think it was helpful to providers

1 either.

2 We moved away from that to a different kind of
3 annual return, which was about more factual information
4 that was more helpful to us. So for fostering and
5 adoption, it would be things like staffing, staff
6 turnover, change of manager, updated policies and
7 procedures, the number of complaints that they had
8 received and the number of -- over time, we have found
9 gaps as we've kind of grown as an organisation and we
10 have reviewed our own processes.

11 Another very helpful development more recently has
12 been that we found it was very helpful to ask for
13 unplanned placement disruption, because that was
14 something that we needed to find in inspection, but to
15 have that information in advance was helpful for us and
16 helped us kind of tailor the inspection to what we
17 needed to look at. So we've adjusted the information
18 we've asked for over time.

19 Q. Using that example of unplanned placement disruption,
20 did the provider have to give you the number of
21 disruptions as well as a brief reason for the disruption
22 or a --

23 MS JAMIESON: They give us the number, so when we go in to
24 inspect we'll refer to that and ask for the evidence
25 around it, so they can explain to us in more detail what

1 those disruptions have been.

2 Q. Okay, thank you. If we can move on on this page to
3 4.2.4, it says -- again this is round about 2006/2007:

4 "At this time providers were given notice of
5 an impending inspection so that arrangements could be
6 made for inspectors to visit foster carers and attend
7 panels or support groups within the inspection
8 timescale. At this time, it was not uncommon for
9 inspectors to request fostering panel dates and foster
10 care support group dates several weeks prior to
11 inspection to assist in planning."

12 Is that something that has changed over time?

13 MS JAMIESON: Yes. We used to give about three months'
14 notice when we were working with the National Care
15 Standards, at that period of time. That has changed
16 over time.

17 In the early days of the Care Commission,
18 inspections were announced and it would be different
19 timescales for different service types. The reason --
20 as we've said there for fostering -- was it was helpful
21 for us to know when panels were sitting, when carers
22 were meeting, if they were having a support group, so
23 that we could try and be in the service at those times
24 in order to access those meetings and the panels.

25 The Care Inspectorate at some point, and I don't

1 have the date to hand --

2 MS HAPPER: I think it was around 2013/2014.

3 MS JAMIESON: We consulted with stakeholders, including the
4 public, around how we inspected and one of the clear
5 things from that consultation was that people using care
6 services or who had relatives in care services felt we
7 should be undertaking unannounced inspections. That was
8 the route we went down.

9 For fostering we tried that. We found very quickly
10 that that was not helpful to the provider or to us,
11 because so much of the inspection is around -- there's
12 a lot of input information that comes into fostering, so
13 it's about your assessments of carers, it's about going
14 to panel within timescales. We require a lot of
15 information from the provider to demonstrate that they'd
16 met some of those requirements in terms of those
17 processes. So going in unannounced meant that we were
18 struggling to do the fieldwork and pick up on the
19 paperwork, because it was taking them time to provide it
20 for us.

21 We moved back to what we called short-notice
22 inspections for fostering. We didn't go back to
23 three-monthly notice, we started to give them four to
24 six weeks' notice of an inspection and we continue to do
25 that because we find that works well for them and for us

1 in terms of the planning for an inspection.

2 Because it's not a premises-based -- most services
3 that we inspect are in a location. If it's a care home,
4 the children are there, the staff are there. For
5 a fostering service, it's an office with staff working
6 from there, but the service users are in domestic
7 premises, foster carers' homes, and that takes a bit of
8 planning in terms of arranging to visit. So unannounced
9 inspection wasn't working for that service type.

10 Q. When you actually undertook the inspection, how long
11 would the inspection itself take?

12 MS JAMIESON: It takes between three and four weeks to carry
13 out a fostering inspection, and that's been fairly
14 consistent throughout the changes in our methodology.

15 MS INNES: I'm going to move on to ask you some more
16 details, but I don't know whether that's an appropriate
17 time to take a break, my Lady?

18 LADY SMITH: I think we should.

19 We take a break at about this stage of the morning,
20 if that works for you, a quarter of an hour or so.
21 I can do that now and then get on to the next stage of
22 your report after that.

23 Thank you.

24 (11.28 am)

25 (A short break)

1 (11.47 am)

2 LADY SMITH: Welcome back. I hope the break has helped you

3 draw breath. Are you ready to go again?

4 MS HAPPER: Yes.

5 LADY SMITH: Good.

6 Ms Innes, when you're ready.

7 MS INNES: Thank you, my Lady.

8 We were on your report at page 17, CIS-000000855.

9 If we can going towards the end of paragraph 4.2.4,

10 there's some bullet points. If we can scroll down

11 a little further, thank you. You note there:

12 "The methodology for inspecting fostering services

13 set out the following sampling criteria."

14 You're talking there about inspection fieldwork

15 activities and you say:

16 "There would be a meeting with the manager of the

17 service to share the inspection plan, arrange for access

18 to electronic records and identify children and young

19 people to be included in the sample for reviewing case

20 records during the inspection."

21 First of all, in terms of the number of records that

22 you looked at, you have the note at the bullet points

23 there that: for large services you look at four records;

24 medium services, as you define there, three; and two

25 records for small services.

1 Why was that sampling criteria set out, do you know?

2 MS JAMIESON: This sampling was set out when we started
3 inspecting fostering services and it's remained at those
4 numbers since then.

5 We look at a lot of information, so although we're
6 looking at those numbers of records, we're actually
7 throughout looking at panel minutes, other information
8 we're giving. We have an opportunity to see if there's
9 any themes. So we will pick those samples in terms of
10 things we might want to look at.

11 It might be a newly registered foster carer with
12 a first placement. It might be a carer where we're seen
13 some notifications in terms of some incidents that have
14 happened.

15 But the numbers, I think, really have been that that
16 is what we are able to do in the footprint of
17 inspection, because it is such a detailed lengthy
18 inspection, to increase the sample where we're needing
19 to travel often to see foster carers, it's very, very
20 time-consuming.

21 So there's a practicality. It's about what can we
22 achieve within the timescale we have to ensure that we
23 get a reasonable overview of what's happening for
24 individual children?

25 We've had issues with that. I think we've struggled

1 with those numbers, because I think we would like to do
2 more. We do try to access more children or contact with
3 more children when we can. For instance, some services
4 will have a support group for children and young people,
5 it might be for foster children and it might be for
6 children who are from the foster family. If those
7 meetings are happening, we'll try and go along and speak
8 to more children, but that does depend on whether it's
9 happening at the time when we're in.

10 We have had discussions about trying to extend that
11 number. We wouldn't be able to extend it by a large
12 number of additional children, because of the time that
13 it takes to visit a foster family, have those
14 discussions and meet children. And we're not sure that
15 increasing the sample to a few more children would give
16 us any more information than we would get from the
17 numbers we're already contacting.

18 I can say that -- you'll come onto this perhaps
19 later -- we now register along with fostering agencies
20 an adult placement service, so we have increased access
21 to young people through those registrations. I can
22 maybe explain later on how that works, but that has
23 increased our sample because we would see two young
24 people in continuing care as well as the numbers that we
25 have here.

1 Q. Okay.

2 LADY SMITH: What's an adult placement service?

3 MS JAMIESON: An adult placement service, with continuing

4 care legislation, when that was passed, the right for

5 young people to remain in care up until the age of 21.

6 The problem that we had in fostering was that the

7 legislation around fostering states that fostering is

8 for children up until the age of 18. So in order for

9 children to remain legally with their foster carer,

10 agencies have had to register an adult placement

11 service. Adult placement is a range of things. It can

12 be what used to be supported accommodation for young

13 people, it's now fostering for continuing care or it can

14 be a service for adults who have respite with

15 a care-giving family.

16 Because the Scottish Government didn't change the

17 legislation in terms of that 18 upper age limit, we had

18 to find a way to enable young people to remain up until

19 the age of 21.

20 LADY SMITH: So you could have same child, same foster home,

21 same foster carers --

22 MS JAMIESON: And it would be, yes.

23 LADY SMITH: -- but the child is in a different category --

24 MS HAPPER: Yes.

25 LADY SMITH: -- once the 18th birthday is past?

1 MS JAMIESON: Yes.

2 LADY SMITH: Thank you.

3 MS JAMIESON: Which has its issues.

4 LADY SMITH: Yes.

5 MS JAMIESON: Yes.

6 MS INNES: We will come back to the issue in relation to
7 that a little bit later on, but thank you for
8 highlighting that.

9 In terms of the sample, when you're talking about
10 records, from what you say it's not just about reading
11 the records.

12 MS JAMIESON: (Witness nodded)

13 Q. I think you go on in paragraph 4.2.5 to say that the
14 records that you have chosen as the sample, you would
15 then read the records, presumably, but then carry out
16 further investigations?

17 MS JAMIESON: Yes.

18 Q. So meet with the child, meet with the carers?

19 MS JAMIESON: Yes.

20 Q. Interview the birth parents, for example?

21 MS JAMIESON: We would do that as long as everyone was in
22 agreement. You know, sometimes birth parents don't want
23 to speak to us, sometimes they do.

24 Q. Okay.

25 Right, if we can move on a little bit again, just to

1 look at something else you do during inspections, over
2 the page, page 18. At paragraph 4.2.6 you say:

3 "During inspections, a selection of policies and
4 procedures would be examined in relation to the
5 assessment and approval of foster carers and those
6 necessary to ensure planning for children takes place
7 timeously to meet their assessed needs."

8 Then you list some policies and procedures that you
9 look at.

10 Do you look at all of the agency's policies relevant
11 to fostering every time or only some of them?

12 MS JAMIESON: We do it every time, because sometimes there's
13 changes, they need to be updated if there's changes to
14 legislation or -- you know, possibly we've asked
15 a service to review and develop a policy. So, yes, we
16 do look at them every time.

17 Q. You also say that records examined -- you've mentioned
18 this already -- fostering panel decision-making, so
19 minutes of the fostering panel. Do you also try to
20 attend a fostering panel?

21 MS JAMIESON: We do. It's ideal if we can attend for at
22 least part of a fostering panel to see how the processes
23 are being undertaken. We would try to link that with
24 a review of -- if there's an assessment of a carer being
25 approved for fostering, it's really helpful to follow

1 that through, so looking at the documentation, speaking
2 to that carer about the process and then going to the
3 panel for approval, or not, may be taking place. It
4 just -- you know, the circle's completed with that
5 process and that's helpful for us to see that.

6 Q. You also mention foster carer training, what sort of
7 material do you look at in relation to that?

8 MS JAMIESON: Every fostering agency should have a training
9 plan for carers. There will be training specific to
10 carers who are undertaking assessment at that point, so
11 there would be a whole range of things in terms of child
12 development, the expectations of them as a foster carer.
13 There will be bits of training about the support they
14 can expect. There'll be practical training around fees
15 and what they're entitled to and the support they're
16 entitled to. Child protection is key to that training
17 and should always be ongoing for all foster carers.

18 We'll see the training around the assessment and
19 approval of carers and then there will be a training
20 plan within every fostering service which details the
21 ongoing training for carers and some of that will be
22 mandatory stuff in terms of child protection, health and
23 safety, support to children generally, but also we would
24 want to see specific training for carers who are looking
25 after children with particular needs.

1 If, for example, they have a child who is autistic,
2 we would expect an agency to be providing training and
3 support for the carer looking after that child. That's
4 one example.

5 Q. When you mention mandatory training, who is making the
6 training mandatory?

7 MS JAMIESON: The service will -- so child protection,
8 health and safety, safe caring will be -- they are
9 mandatory training, so the agencies are calling that
10 mandatory because it is their baseline for the training
11 that foster carers need to undertake.

12 But that is consistent across agencies. There is
13 an understanding that these are the things that need to
14 be ongoing and there's an expectation that foster carers
15 will attend. Because sometimes that can be an issue
16 that we pick up in inspection, that you may have carers
17 who don't attend particular training that is being asked
18 of them, and that will be something we would be
19 discussing with the agency as to how they would
20 encourage carers to attend that.

21 LADY SMITH: Let me ask you just a little bit more about
22 that. Using the word "mandatory" suggests that failure
23 to comply is going to result in a sanction. What do
24 agencies do to get foster carers to go to the training
25 that they're arranging?

1 MS JAMIESON: I think there's a bit of a historical legacy
2 here. I don't want to -- because some very experienced
3 carers are very, very keen to keep their knowledge and
4 training and development up to date. But sometimes you
5 will see carers who have perhaps been foster carers for
6 a number of years who think they have done the training,
7 and perhaps need encouragement to understand that
8 actually things do change and there's an expectation
9 that you keep up to date.

10 We've seen an improvement in recent times when
11 foster carers are being assessed that the expectation
12 that they attend training is much more apparent, and
13 that expectation is articulated. I think we've had
14 a little bit of a legacy around training for some foster
15 carers and I think agencies are addressing that in their
16 assessments now.

17 LADY SMITH: I hear a drift there from language of
18 "mandatory" into language of "expectation", but I go
19 back to the question of what you do if a foster carer
20 continues to absent themselves from the training that's
21 being made available to them.

22 MS JAMIESON: We would expect there to be a review. Foster
23 carers have regular reviews, and at those reviews,
24 training is something that -- you know, the training
25 they've undertaken should be discussed in terms of: have

1 they done it? How useful has it been? Do they need
2 anything else in addition? We do see where carers have
3 not been attending training, that they can be taken back
4 to panel, back to the fostering panel for a discussion
5 around that. Because it is vital that they keep up to
6 date with --

7 LADY SMITH: Ultimately may the child have to be moved? Or
8 children have to be moved?

9 MS JAMIESON: I don't think we've seen that, I can't think
10 of an instance where we've seen it. We ourselves have
11 made recommendations about the agency needing to ensure
12 that foster carers attend training and I'm sure that
13 then enables a discussion with the foster carers and we
14 will follow up on that, but I'm not aware of examples
15 where children have been removed. That would be a last
16 resort and I would hope that foster carers committed to
17 the care of young people would not allow that to happen
18 because they hadn't attended training. I would hope
19 that the assessment of foster carers is such that they
20 are committed to the care and that they would want to do
21 all they could to continue that care.

22 MS HAPPER: I guess the question is -- yeah, the ultimate
23 sanction is about being removed as a carer, that the
24 agency would remove the carer. That's high stakes --

25 MS JAMIESON: Yes.

1 MS HAPPER: -- because children are there. And that is
2 a dilemma, no doubt, for agencies. A good agency would
3 absolutely want to get underneath what the resistance to
4 training is about and whether that's about support, you
5 know, inability to attend, a lack of understanding. You
6 know, we would certainly be looking at the foster
7 agency, before they took a big stick we'd be saying: are
8 you providing childcare, for example, to allow somebody
9 to attend? Or are you providing other sorts of supports
10 and so on?

11 If we, as a regulator, came across an agency who was
12 ignoring the fact that carers wholesale were not going
13 into training, what would we do? Well, our ultimate
14 sanction would be then to take enforcement action or to
15 put a condition notice on a Local Authority. We've
16 never been in that situation, I think we're a very long
17 way away from that kind of situation and I hope we're
18 not, I hope we'd be able to find a way around it because
19 to move a child and potentially other children is very,
20 very high stakes.

21 But foster carers want to do their best overall, and
22 most do. The issue is those who don't, how they can be
23 moved.

24 LADY SMITH: I'm sure we all hope they want to do their
25 best, but it seems to me there has to be an awareness of

1 an ultimate backstop. Is that right?

2 MS HAPPER: Yes, I agree.

3 MS JAMIESON: Yes.

4 LADY SMITH: Ms Innes.

5 MS INNES: Thank you, my Lady.

6 If we can move on down this page to 4.2.9:

7 "The inspector would look for opportunities to

8 attend foster carer support groups ..."

9 You've mentioned children's groups, but I think you

10 would also try to maybe speak to other foster carers

11 through a support group. Is that if it happens to be

12 meeting during the inspection time?

13 MS JAMIESON: Yes, yes. When we contact the agency four to

14 six weeks before, we do this. Because we don't tell

15 them we're coming. We say, "We're going to be carrying

16 out an inspection in the near future, can you give us

17 dates?" So we would try to accommodate that.

18 We might not manage it every time, but hopefully if

19 we didn't do it in this inspection we would manage it in

20 the next one.

21 Q. At this part of the report, the bottom of page 18 onto

22 page 19, you refer to the time of the Care Commission

23 and that initially a consultant had prepared a range of

24 questionnaires which were distributed to service users,

25 staff members, panel members and other stakeholders,

1 I think also including children. And over time it was
2 found that the return rates were low and they didn't add
3 to the inspection process. Can you tell us a little bit
4 about that?

5 MS JAMIESON: Yes. The consultant came in and had produced
6 over 30 questionnaires for us, very, very detailed,
7 written in a very legal way, had cross-referenced all
8 sorts of legislation from the foster regulations to
9 looked-after children regulations. I think it was
10 really quite confusing for not only foster carers,
11 parents and sometimes children, because he was
12 referencing those, but also I think stakeholders too.
13 So we had questionnaires for everyone that was involved
14 and even to the point of people that we might not
15 necessarily contact in every inspection, so it would be
16 CAMHS services, it would be teaching staff. It was
17 huge.

18 It was really very unwieldy and really didn't
19 address what it was that we were looking for. It was
20 far too complicated. We used them in a couple of
21 inspections and the feedback from inspectors and people
22 receiving the questionnaires was that they were just not
23 what we were needed and weren't what we were looking
24 for, so we stopped using those.

25 Q. What did you do in its place?

1 MS JAMIESON: We devised more simple, more straightforward
2 questionnaires that were asking open-ended questions
3 about the quality of care and the experience of people
4 and we put those in place.

5 We've developed those over time, so we've cut it
6 right back initially to questionnaires for foster
7 carers, parents, children, social workers, staff working
8 in the agency, and over time, as we've changed our
9 methodology and we've reviewed our framework, we've
10 adjusted our questionnaires to reflect what it is that
11 we are looking for in inspection and the questions we
12 need to ask.

13 Q. Are you still using these questionnaires?

14 MS JAMIESON: Yes.

15 Q. Are these online now for the people to access?

16 MS JAMIESON: They are now. We used to send out paper
17 questionnaires and we've very recently been able to
18 transfer them into MS forms. Prior to inspection we
19 will send the links to the forms to the manager of the
20 fostering service, who will then send those links out to
21 all foster carers and all children using the service,
22 their families and the staff working in the agency.

23 We also have questionnaires for panel members, we're
24 actually reviewing those at the moment because we've had
25 feedback from panel members that they're not meeting

1 their needs in terms of what they want to tell us, so
2 we're actually reverting to an older questionnaire that
3 we had that is much more specific to the panel and
4 I think will give us a better quality of information.

5 Q. There are a number of things within that that I'd like
6 to ask about.

7 The first is about the rate of return. Has that
8 improved or what sort of rate of return do you get?

9 MS JAMIESON: We've just started recently using the MS
10 questionnaires, so we haven't carried out many
11 inspections since introducing that, but we're hopeful
12 that it will -- in the few inspections that we've done,
13 I think we've had quite a good rate of return. I think
14 children and young people prefer filling things in
15 online rather than having to write and send a paper copy
16 back or do it in a different format.

17 We're monitoring that, because it's a different way
18 of sending them out. So I can't give you the figures at
19 the moment because we haven't done many inspections.

20 Q. Prior to the new MS forms that you're using then, what
21 sort of rate of return were you getting?

22 MS JAMIESON: I think I'd need to get the figures for you if
23 you require that. What I do know kind of from my
24 experience of speaking to inspectors is that sometimes
25 it does depend on the agency. There is a variation in

1 terms of return. I think staff return is high, but
2 I think there's encouragement from the agency for staff
3 to complete them. Foster carers varies and the returns
4 from children vary.

5 Q. In terms of children then, is there any age limit on who
6 is sent these questionnaires?

7 MS JAMIESON: We wouldn't send them to very young children
8 who couldn't complete them, so it would be primary
9 school.

10 But also there is a -- you know, we do encourage the
11 agency to ask foster carers that if children aren't able
12 to fill them in themselves, that they're either
13 supported by the foster carer or the social worker to
14 complete them.

15 Q. Can you check that the agency has actually sent the
16 questionnaire out to all of their foster carers, for
17 example?

18 MS JAMIESON: We ask them and we trust that they will. We
19 don't look for the emails that have gone, but we feel
20 confident that they do.

21 MS HAPPER: It does place trust in the provider to do that,
22 trust in the service. We've talked about whether
23 there's any other way of doing it and there isn't,
24 because we would be reliant on the service to give us
25 a list of the carers that they have.

1 LADY SMITH: Then you'd have to look at data sharing
2 agreements.

3 MS HAPPER: Oh, it's such a complicated issue.

4 MS JAMIESON: Yes.

5 MS HAPPER: Were we to go into a service where we had other
6 concerns, it would be unlikely that that would come just
7 out of the blue. We would have other things that would
8 make us think we're not comfortable about this service,
9 then we would be looking to do additional inspection
10 activity. You can do more digging around if you're in
11 a service where you have a suspicion that maybe all is
12 not as it should be.

13 We have really had quite a lot of discussion with
14 our information governance people and our IT people and
15 so on about how we manage the whole question of getting
16 access to private individuals and it's a very fraught
17 area.

18 LADY SMITH: I'm sure it is.

19 MS INNES: Just going beyond that in your report, you talk
20 about the process of completing the report. At
21 paragraph 4.2.11, you say:

22 "Where areas for development for the service were
23 identified, the inspector would make either
24 recommendations or requirements to the service
25 provider."

1 You've mentioned those terms before. Are those
2 still used today?

3 MS JAMIESON: We no longer make recommendations. We make
4 areas for improvement, which are very similar.

5 The recommendations I'm talking about here were in
6 relation to referencing the National Care Standards.
7 The areas for improvement are referencing the Health and
8 Social Care Standards. So we're using a different set
9 of standards now and we've changed areas for
10 improvement.

11 I think we like the term "improvement", because that
12 is what we are here to facilitate and that's the
13 language we now use.

14 Q. Okay. How do you distinguish between something that is
15 going to be an area for improvement and something that's
16 going to be a requirement?

17 MS JAMIESON: An area for improvement is linked to the
18 Health and Social Care Standards. It's in terms of this
19 is what I should be getting in terms of my care.

20 A requirement is set down in legislation, so we make
21 requirements against our regulations. For instance, if
22 there is something that we're concerned about in terms
23 of the health and well-being of children, perhaps it
24 could be around care planning and something that we've
25 found in care planning that is related to their

1 well-being, so it could be medical appointments or
2 something that isn't happening for children, we would
3 link that under a requirement, which would say the
4 provider must take steps to ensure this is happening.

5 A requirement is something that if it is not
6 complied with, we can take steps to go to enforcement on
7 that. We wouldn't go to enforcement on an area for
8 improvement, but a requirement we're able to do that if
9 it's not complied with.

10 Q. Okay.

11 MS JAMIESON: So areas for improvement, this is good
12 practice, this is what we would like you to do.

13 It could be if an area for improvement wasn't
14 progressed over time and we felt that the impact on
15 children was so detrimental that we needed to take
16 increased action, we could put that under a requirement
17 if it was something that then was impacting on the
18 well-being of children.

19 It's a level of assessment at that time for an area
20 for improvement.

21 Q. With a requirement, are they give a timescale within
22 which they need to resolve the matter?

23 MS JAMIESON: They are.

24 Q. Is there a set timescale or does it depend on the
25 requirement?

1 MS JAMIESON: It depends on the requirement, what we're
2 asking them to do.

3 Q. Then do you go back again and check that it's been met?

4 MS JAMIESON: We follow up, we comment on areas for
5 improvement and requirements at the next inspection.
6 The following inspection report will detail what has
7 been done to meet a requirement or not, and if it hasn't
8 been met we can repeat that requirement or we could
9 ultimately take the steps to enforcement, but that's not
10 something we've had to do in fostering agencies.

11 MS HAPPER: To meet a requirement, we will always follow
12 that up. It doesn't have to be with another inspection
13 or another visit. It depends on what the requirement's
14 about. If the requirement's about producing a policy,
15 then you don't have to go back to find that. You may
16 want to speak to people to find out whether that policy
17 has then been implemented, but it really will depend --
18 you have to be intelligent about what the requirement's
19 about, what the urgency of that is and how best to
20 follow that up in a way that makes sense to us and to
21 the service and is as efficient as possible.

22 MS JAMIESON: We can also, if we find something in
23 a service -- I can't think of an instance where we've
24 done this in a fostering service, but we've certainly
25 done it in other service types -- during inspection

1 where there is a risk to a child or young person and it
2 needs immediate action, we won't wait until we produce
3 the inspection report. We can write to the provider
4 making an immediate requirement.

5 Q. Okay. (Pause)

6 You mentioned enforcement and you do deal with it in
7 a bit more detail later on in your report, but perhaps
8 if we can just deal with that at the moment.

9 You talk about "formal enforcement action". In
10 terms of a fostering service, what is that?

11 MS JAMIESON: There's different types of enforcement we can
12 make.

13 We can issue a conditions notice, which is all
14 services have a registration certificate that details
15 their conditions of registration. So we could add
16 something -- we can impose a condition on a registration
17 and in particular ... we've never done that for
18 a fostering agency. The most common thing that we might
19 do is in terms of care homes where we might, if we have
20 particular concerns, we might ask or put a condition on
21 that the service can't admit any other children to
22 a service until improvements are made or requirements
23 are met or something along those lines where we have
24 concerns.

25 We've never done it for fostering. I'm not sure we

1 would put a condition on, but it might -- it would be
2 a likelihood we would be telling them not to assess any
3 more carers, because we haven't -- because they're
4 a well performing services generally, we haven't been in
5 that position.

6 The other enforcement we can take is an improvement
7 notice, where we require the service to make certain
8 improvements within a timescale that we specify. They
9 read a bit like requirements, but an improvement notice
10 says to the provider that if they do not meet those
11 improvements within the timescales, we may move to
12 closure of the service.

13 So if we continue to have serious concerns around
14 a service, we would then have to make an application to
15 the court to cancel the service. Again, we haven't done
16 that for fostering.

17 Q. In terms of fostering, are there specific provisions
18 where the service is a Local Authority --

19 MS JAMIESON: Yes.

20 Q. -- and you can't cancel a Local Authority.

21 MS JAMIESON: (Witness nodded)

22 Q. What would happen if you reached that stage with a Local
23 Authority?

24 MS JAMIESON: If we were issuing an improvement notice, we
25 would need to inform the Scottish Ministers that we were

1 doing that, because a Local Authority must provide
2 a fostering service, and for us to close that would not
3 be conducive to them exercising their duties, but
4 Scottish Ministers would then get involved in that
5 discussion.

6 Q. With another voluntary agency, it would be the same
7 rules as would apply to a care home, for example?

8 MS JAMIESON: That's right, that's right.

9 Q. Okay. To what extent would you consider, when going to
10 that level of enforcement, the welfare of the children
11 that are under the care of that service?

12 MS JAMIESON: Our primary consideration when taking
13 enforcement would be the risk to children or people
14 using the service. If that becomes to a level that is
15 not acceptable to us, that's when we would be looking at
16 enforcement.

17 MS HAPPER: It's a very, very difficult area for
18 a regulator, enforcement action, because it's yellow box
19 thinking. You know, when you're driving you don't go
20 into a yellow box unless you can see a way out. We
21 wouldn't be going down that road unless we really
22 felt -- we would need to be prepared to take this all
23 the way, and that's why we need to make sure we're
24 working on a legally sound basis, that we have the
25 evidence that we're gathering, the evidence we need and

1 so on, and we try and find other ways of turning people
2 around and getting improvement, because there's huge
3 consequences for people using that service to go to
4 closure.

5 LADY SMITH: It's really back to what we were saying when we
6 were discussing what to do with foster carers that won't
7 go to training.

8 MS HAPPER: Yes, but we're regulators and we have to be
9 prepared to countenance that. If we don't, if we're
10 saying we would never go there, then we would not be
11 doing justice for children and young people. So we have
12 to have that in our head, whilst hoping that we can use
13 all of the other levers that we have to facilitate and
14 support that improvement and get that improvement
15 without having to go to closure.

16 LADY SMITH: Thank you.

17 MS INNES: If we can move on, please, to page 20, you're
18 dealing here with inspections between 2008/2009 and
19 2011/2012. At 4.3.2 you talk about a revised approach
20 to inspection. I would like to discuss that topic with
21 you just now.

22 Previously you talked about inspections being linked
23 to the care standards and here you're talking about
24 a revised approach based on a quality assessment
25 framework which was introduced in 2008 for all

1 registered care service types, including fostering
2 services. Am I right in thinking that this is -- well,
3 is this something that the Care Commission at the time
4 developed?

5 MS JAMIESON: Yes.

6 Q. Right, and it applied to all of the services that they
7 were inspecting?

8 MS JAMIESON: Yes.

9 Q. What was the difference between that and what had gone
10 before?

11 MS JAMIESON: What had gone before, as I was explaining, we
12 were inspecting against the standards, so each
13 individual standard. This new framework identified
14 quality indicators and things that were kind of broader
15 and more kind of targeted to inspections, so the
16 headings for fostering and adoption were "Quality of
17 care and support". So it was pulling out that and
18 focusing on care and support for children in a much more
19 detailed way that was focusing much more on outcomes
20 rather than the standards, but still referencing the
21 standards at this point as well, quality of staffing and
22 quality of management leadership. Underneath that we
23 had indicators that we were inspecting against.

24 There's quality statements below the headings and we
25 felt this was a better approach in terms of, as I say,

1 focusing on those outcomes for children and for foster
2 carers.

3 Q. If we go on to page 21 at paragraph 4.3.5, you also say
4 that the grading framework that you've already
5 mentioned, that was introduced in 2008 --

6 MS JAMIESON: Yes.

7 Q. -- and each quality statement inspected was awarded
8 a grade.

9 MS JAMIESON: That's right.

10 Q. You've set those out there.

11 MS JAMIESON: Mm-hmm.

12 Q. At 4.3.6 you say:

13 "The grading framework also set out that any
14 evaluation of adequate and above in any quality
15 statement was aggregated, but where an evaluation of
16 weak or unsatisfactory was applied to any quality
17 statement, this grade would be the evaluation for that
18 quality theme."

19 If, for example, you have one -- your quality theme
20 of quality of care and support say you have five items
21 under that and one item is "weak", that impacts on the
22 grading for that theme?

23 MS JAMIESON: That's right.

24 Q. Okay. When I say it impacts, does that mean that under
25 that theme, it's weak overall?

1 MS JAMIESON: Yes, that's correct.

2 Q. Okay.

3 MS JAMIESON: That's because that's a level of risk that

4 isn't tolerable. To aggregate that up into something

5 that is, for example, adequate, isn't reflecting the

6 level of concern. So that baseline of below an adequate

7 that's not a tolerable level of risk, it needed to be

8 identified in the inspection.

9 Q. Okay. I think you then -- from what you've said

10 already, did you use that framework up until the new

11 care standards came in?

12 MS JAMIESON: Yes.

13 Q. Again I'm skipping forward perhaps, but if we can look,

14 please, at a document CIS-000001009, I think we see here

15 a document:

16 "A quality framework for fostering, adoption and

17 adult placement services.

18 "For use in self-evaluation, scrutiny and

19 improvement support."

20 From May 2021, can you explain what this is?

21 MS JAMIESON: The Care Inspectorate reviewed all its quality

22 frameworks. This is our new framework that we

23 introduced in May 2021, specifically for fostering,

24 adoption and adult placement. I think as

25 an organisation we do a lot of reflection in terms of

1 where we're at, how can we improve, where there is new
2 legislation, there had been lots of changes to care. We
3 had the Promise about to report at this time. We were
4 changing our methodology, looking far less at processes
5 and inputs into inspection and focusing much more on
6 outcomes for people using services.

7 It was necessary for us to review our methodology
8 and produce a new framework.

9 This framework, when you read it, talks about people
10 using the service and what they can expect. It's linked
11 to the Health and Social Care Standards, but it's linked
12 to children's rights and it's linked to -- we've had
13 legislation such as continuing care that we needed to
14 look at, how we were going to promote that.

15 There have been quite a lot of changes in the sector
16 and us realising that we needed to reflect that in how
17 we inspect.

18 Q. If we can look on to page 8, please, and I hope that
19 this is an appropriate page to go to to hopefully
20 summarise the current approach to inspection.

21 Here we have the quality indicators and then five
22 key questions across the top. Are those the quality
23 indicators?

24 MS JAMIESON: Those are the quality indicators that we are
25 now using.

1 Q. Okay. These are five questions that you're looking at
2 presumably when you look at a service?

3 MS JAMIESON: We don't look at every one in the service.

4 Q. Okay.

5 MS JAMIESON: What we've done with all our quality
6 framework -- I'll just -- so what we're looking at for
7 well-performing services for fostering at every
8 inspection is indicators 1.1, 1.2, 1.3, 1.4, and then
9 we're looking at 5.1 in the planning.

10 Q. Okay, if we can just pause there, because we can only
11 see part of that on the screen. Key question 1:
12 "How well do we support people's well-being?"
13 Then we see 1.1 and 1.2 that you've mentioned. Then
14 below that I think we see 1.3 and 1.4. This is,
15 I think, focusing on the experience of children and
16 young people --

17 MS JAMIESON: Yes.

18 Q. -- and their care-giver families?

19 MS JAMIESON: Yes.

20 Q. Then at 5, you mentioned 5.1:
21 "How well is our care and support planned?"
22 5.1:
23 "Assessment and care planning reflects the outcomes
24 and wishes of children, young people and adults."

25 MS JAMIESON: Yes.

1 Q. You say that in a well-performing service all of these
2 issues would be looked at every time?

3 MS JAMIESON: That's right.

4 Q. Okay.

5 MS JAMIESON: That's for services that are grading 4 and
6 above and have a low risk, we've deemed them to be low
7 risk.

8 Q. Okay, so the grading 4 and above, is that from their
9 previous inspection?

10 MS JAMIESON: Yes.

11 Q. When you say low risk, how do you assess that?

12 MS JAMIESON: We have an assessment too. We've recently
13 changed that. We had an assessment tool that was called
14 a "RAD", a regulatory assessment document, it's now
15 called a "SAT", a scrutiny assessment tool, but they're
16 basically the same thing. We kind of changed it with
17 the new methodology, partly so it didn't cause confusion
18 but we have made tweaks to it because again we had
19 reviewed how we assess risk.

20 That tool will look at has there been a change in
21 manager, what was the last performance of the service,
22 have we had complaints, do we have concerns from
23 notifications? That assessment of what we're seeing in
24 terms of the intelligence informs our risk attached to
25 a service.

1 That's a dynamic tool. So throughout time if we
2 identify concerns, we'll update that tool to look at the
3 score. It's a tool that gives a score that will then
4 tell us whether it's a low-, medium- or high-risk
5 service.

6 Q. Okay.

7 MS JAMIESON: That, alongside the grading, will determine
8 when and how we inspect, because if we were seeing
9 a service that was causing us concern from any of the
10 intelligence that was coming to us, we might want to
11 bring an inspection forward and inspect the service.

12 Q. Okay, just something within that, the frequency of
13 inspection. We saw that at the beginning you were
14 inspecting every year and that's obviously changed?

15 MS JAMIESON: Yes.

16 Q. How frequently do you inspect now?

17 MS JAMIESON: We now inspect well-performing services every
18 two years, the frequency is two years for fostering.

19 Q. That's based on this assessment that you've just
20 explained, the risk assessment and the previous grading?

21 MS JAMIESON: Yes.

22 LADY SMITH: That's for a well-performing service?

23 MS JAMIESON: That's for a well-performing service.

24 LADY SMITH: Two years?

25 MS INNES: What about if somebody's assessed medium risk?

1 MS JAMIESON: So a medium risk, we would look at all of
2 those indicators and in addition include 2.2 and 3.2 in
3 the inspection.

4 Q. We can see 2.2, under the heading, "How good is your
5 leadership?" We are looking at quality assurance and
6 improvement are led well.

7 Then 3.2, "How good is our team?" Looking at,
8 "Staff have the right knowledge, competence and
9 development to support young people and their caregiver
10 families". How frequently would you inspect such
11 a service?

12 MS JAMIESON: Those services would fall into frequency for
13 being inspected annually.

14 Q. Annually? Okay.

15 MS JAMIESON: I might just say, there are clearly other
16 indicators there that are not our standard inspection
17 indicators. However, inspectors can bring any of those
18 indicators into any inspection if they identify concerns
19 during an inspection. They can report on any that they
20 feel they should be bringing in.

21 Q. I was going to ask about that. If it's
22 a well-performing service, for example, and there seems
23 to be no risk but the inspector gets in and discovers
24 that there are issues with staff recruitment --

25 MS JAMIESON: Yes.

1 Q. -- they can still raise that --

2 MS JAMIESON: Yes.

3 Q. -- and look into that?

4 MS JAMIESON: Yes.

5 Q. Would that then extend the inspection activity, so they

6 might have to review what the plan was for the

7 inspection?

8 MS JAMIESON: It would be changing the inspection plan.

9 They would be reviewing their plan and adding that into

10 their plan. In doing that, it's likely that would

11 extend the footprint.

12 Q. The time of the -- okay, of the inspection.

13 Then for a service at high risk, first of all, which

14 additional indicators have to be included?

15 MS JAMIESON: So it would be the same. When we talk about

16 poorly performing services, that would be high risk,

17 that would be medium and high risk, so it would be all

18 the ones, 5.2, 2.2 and 3.2.

19 Q. Okay.

20 MS JAMIESON: But it may be if we have information prior to

21 going into an inspection, so, for instance, you know,

22 that there's staffing issues, they may actually in

23 advance decide to inspect against another quality

24 indicator, if that's something they've identified needs

25 to be looked at. It could either be done prior to the

1 inspection or during the inspection.

2 Q. Is there any difference then in the approach to a high
3 risk or a medium risk?

4 MS JAMIESON: No, they are deemed to be more poorly
5 performing services.

6 Q. Okay.

7 MS HAPPER: Can I interject? I think it's quite important
8 to understand all of this in the context of two issues
9 that all regulators have wrestled with post the Crerar
10 Review.

11 LADY SMITH: Sorry, which review were you referring to.

12 MS HAPPER: The Crerar Review.

13 LADY SMITH: Thank you.

14 MS HAPPER: It was on the basis of the Crerar Review that
15 the Care Inspectorate came into being and came around in
16 2010 I think it was, around with the Public Services
17 Reform Act, which is our core legislation on which we
18 base our activity.

19 Following that, as a result of the Crerar Review,
20 all regulators have been wrestling with the issue around
21 intelligence-led, risk-based inspection and
22 proportionality, which were the principles that Crerar
23 recommended that scrutiny should go forward.

24 I think we have over 12,000 care services registered
25 with the Care Inspectorate. There's continual demand

1 for new things to look at, and it's impossible to
2 inspect everything. It's burdensome for everybody, it's
3 very, very costly, and it doesn't necessarily make
4 a clear link to greater safety for people using services
5 and better outcomes.

6 We're all wrestling with how we bring forward the
7 intelligence to decide to move away from we inspect at
8 certain points always, when everybody knows that we're
9 coming and it's the annual inspection time and then
10 everybody prepares for it, to something that is much
11 more proportionate, is able to assess risk and put more
12 effort into seeking improvements in services which are
13 of higher risk or where we have greater concerns, and
14 allowing services which are less risky to take forward
15 and take responsibility for their own improvement.

16 That's one issue.

17 The second issue, which is linked to that, is about
18 self-evaluation and encouraging services who are able to
19 do that to really take responsibility for their learning
20 and their own improvement. That's why all of the new
21 frameworks that are written are written in the style
22 where they're written primarily as a self-evaluation
23 tool, so the language is, "How are we improving our
24 services?" They're written for the audience of
25 partnerships and services who are delivering their own

1 services, to use that model to say: let's evaluate how
2 we're doing. And for inspectors to evaluate using the
3 same framework, so there are no surprises, there's no
4 mystery in this. We're looking at what you're looking
5 at and we're expecting you to be able to tell us how
6 you're doing under these indicators and to provide
7 evidence that we can verify that shows that it's not
8 just a trust game, that we're able to verify that what
9 you're finding is what we're finding.

10 LADY SMITH: I get exactly what you're saying about
11 proportionality, but equally, as I look at this table,
12 I can see how one could end up making it still look
13 quite complicated --

14 MS HAPPER: Yes.

15 LADY SMITH: -- and perhaps open to individual subjectivity.
16 Take, for example, 1.2:
17 "Children, young people and adults get the most out
18 of life."

19 MS HAPPER: Yes.

20 LADY SMITH: Where would I start if I was inspecting on that
21 basis?

22 MS HAPPER: So.

23 MS JAMIESON: So -- yeah.

24 MS HAPPER: If you look into the framework, there are then
25 some illustrations under that indicator of --

1 LADY SMITH: Right, right.

2 MS HAPPER: -- what that might look like.

3 Yes, I know where you're coming from. I can see

4 that some of that is very broad. But when you then get

5 down to individual statements, it's very hard to find

6 something that will apply in a kind of person-centred

7 way that applies then equally to all. But there are

8 a set of indicators that are sitting underneath that as

9 you work down the framework and there are illustrations.

10 They're illustrations only, they're not prescriptive,

11 but they are illustrations for people to help

12 themselves.

13 LADY SMITH: I will allow Ms Innes to continue in a moment,

14 but tell me this. Sadly, sometimes things go wrong. If

15 that happens and a child is found to either have been

16 harmed or clearly at risk of harm, is an effort made to

17 pinpoint what was happening that created the risk or

18 created the harm and then feed it back into this type of

19 documentation or this type of planning for the work of

20 the Inspectorate?

21 MS HAPPER: If I understand your question correctly is are

22 we learning from things that have gone wrong and being

23 able to then take them into --

24 LADY SMITH: Your work. Yes.

25 MS HAPPER: Yes, we do, because there are -- I mean it's at

1 quite a macro level, I guess. The difficulty, when
2 something goes wrong, there's always a whole series of
3 events that are very particular to that situation. So
4 it sounds as if it might be easy to learn from what's
5 gone wrong, but actually it's rarely one thing, it's
6 a whole combination of things that go wrong.

7 But, yes, I think what we are learning is what's
8 most important. We spoke earlier on about having space
9 for children to really listen to what children are
10 saying in an active way, not just saying, "Well,
11 children are children", but really listening to what
12 children are saying. That's a key learning from a lot
13 of inquiries or if something's gone wrong.

14 Information-sharing is another thing. How
15 professionals talk to each other has been a key element
16 of a lot of tragedies and cases where things have gone
17 wrong. So we've given a priority in a number of our
18 frameworks to listening to children and young people and
19 also to -- not just to us listening to children and
20 young people, but to the providers having those
21 mechanisms for making sure children are heard.

22 Similarly, we look at information-sharing, we're
23 asking them how they share information, how they
24 collaborate with other professionals in terms of
25 planning for a child and making sure that that plan is

1 implemented.

2 Yes, it is at quite a macro level, but absolutely
3 those things are important in our development of our
4 frameworks.

5 LADY SMITH: Thank you.

6 Ms Innes.

7 MS INNES: I was going to go on to page 16, which I think
8 gives an example of the quality indicator and the
9 illustrations that you just referred to. We see at the
10 top of the page the quality indicator and it notes
11 below:

12 "Key areas include the extent to which children,
13 young people and adults living within caregiver families
14 make decisions and choices about their lives and how
15 they spend their time and lead active and fulfilling
16 lives."

17 It also says:

18 "... and the extent to which everyone is being
19 supported by the service, have positive learning
20 experiences, achieve their goals and aspirations and
21 reach their potential, feel safe and are protected from
22 abuse, harm, neglect and bullying."

23 Then below that there's a number of illustrations
24 and I think that's what you were mentioning.

25 MS JAMIESON: Yes.

1 MS HAPPER: Yes.

2 Q. These are some examples.

3 If we look at "weak", at the very first illustration

4 there:

5 "People living within caregiver families have little

6 autonomy and are expected to fit in with what is

7 happening within the home with little opportunity to

8 influence family life. The quality of their experiences

9 is lessened by assumptions about what is safe or

10 possible."

11 Then below that:

12 "Caregivers do not consider the changing needs and

13 preferences of the people in their care."

14 Those seem to be directed to what's happening in the

15 domestic setting in the foster care family --

16 MS JAMIESON: Mm-hmm.

17 Q. -- but you're looking at the fostering service, as

18 you've explained. How then is that illustration

19 relevant to your inspection activity?

20 MS JAMIESON: Because we are looking at what the experience

21 of children is within the foster family.

22 Yeah, the agency is assessing, approving and

23 supporting foster carers, but the carers are supporting

24 the young people that I refer to them and they're

25 providing care to.

1 I think when you look through the quality framework,
2 you'll see a lot of reference to the experience of young
3 people. In the inspection, we are looking at young
4 people's care plans. Some of those care plans are
5 devised by the Local Authority, but in terms of helping
6 young people achieve their potential and address their
7 needs and everything within that, the foster carer and
8 the service supporting the foster carer is key to that.

9 We look at those care plans and if we see that
10 children are not getting what they need to achieve their
11 potential or be safe or to get the services that they
12 need, we do refer to that. This new framework allows us
13 to do that much more than previous frameworks we had
14 did, which I think is where we wanted to get to.

15 Because that is -- at the end of the day, the remit of
16 the fostering agency is to provide high-quality care to
17 children through the foster carers.

18 Q. You said that this would also be used as a tool for
19 self-evaluation by the agency.

20 MS JAMIESON: (Witness nodded)

21 Q. Presumably they could look at their own carers and see
22 if children are not having this experience, why is that?
23 Are there any issues that we can address to resolve
24 that? Is that the sort of idea?

25 MS JAMIESON: Yes.

1 MS HAPPER: Yes.

2 We can't mandate a service to use the tool. What
3 we're saying is that tool is there, we are expecting you
4 to know -- you know, a good service doesn't wait for the
5 inspector to just come in and tell them things. We're
6 expecting them to know, we are expecting them to know
7 because they've asked the questions. If they have
8 a better tool to use to find out, that's great, but
9 here's one ready made off the shelf you could be using
10 to be asking yourself those questions. If they're not
11 asking themselves those questions and they don't know,
12 then we need to know why that is, because inspection
13 isn't just about it's a quality of the service that
14 you're providing. It's also about that that provider,
15 that service, is in safe hands, that it's with managers
16 who know what they're doing and who are constantly
17 striving to improve their service.

18 It's a reasonable expectation for the regulator that
19 the service will know how it's performing, what's good,
20 what's not so good. Of course you will always have --
21 other people will come in and there will be things --
22 you know, it's holding a mirror up to you, there will
23 always be other insights that you can give, but it's
24 a reasonable expectation from the provider that services
25 will have made efforts to find out themselves what

1 they're doing well and what they're not doing well,

2 where they need to improve.

3 LADY SMITH: They should also be able to use this to inform
4 them when devising their training plans, shouldn't they?

5 MS HAPPER: Absolutely.

6 MS JAMIESON: When we were developing the framework, we
7 consulted very widely with the sector and we had a very,
8 very good uptake. We had a number of workshops around
9 the draft framework. We invited comment from fostering
10 agencies. CELCIS was also involved, and the feedback
11 was that the sector thought it was a very useful
12 self-evaluation tool.

13 We were very positive about, as they were, that
14 there seemed to be a high degree of buy-in to the new
15 framework and how useful they would find it.

16 Q. Thank you.

17 Can I move away from that and onto something else,
18 back to your own report at CIS-000000855, page 42.

19 We see a paragraph there, 6.2 in relation to
20 notification guidance and you say that:

21 " ... requires fostering services to notify the Care
22 Inspectorate of any allegation of abuse related to
23 a child or young person experiencing care via the
24 service, the notifications may relate to an allegation
25 against a foster carer who is providing care currently

1 or may relate to a historical allegation about a past
2 foster carer or another individual."

3 Can you just explain a little bit about that,
4 please. How do you receive these notifications? Is it
5 by phone or is it in a particular online form, for
6 example?

7 MS JAMIESON: We have a system that we access to record and
8 undertake some of our processes, but providers also have
9 access to that system in terms of submitting
10 notifications to us. So it's called eForms and they can
11 go on to our system and there's a list of things that
12 they need to notify us about and they then complete
13 a document when an event or incident has happened and
14 that then comes into our side of the system. So
15 inspectors will get a notification through their email
16 system to say that there's been a notification come into
17 the service's inbox and that's -- I'm not explaining
18 this very well. We call that RMS, it's a regulatory
19 management system. So it's a two-way thing. They can't
20 see what's in it from our point of view, so they don't
21 have access to our records, but they can drop in the
22 notifications. We get an email and then we can go in
23 and find it.

24 Q. Okay. If we just scroll down to 6.3, I think this is
25 perhaps what you're referring to there. So a log is

1 opened and what does the inspector do when the
2 notification -- apart from this mechanical side of
3 things? Do they contact the provider? What do they do?
4 MS JAMIESON: When a notification of abuse comes in, they
5 will read it, they will look at the information that the
6 provider has given us. If it's child protection, they
7 will be ensuring that there's information there from the
8 service, that they have contacted the appropriate people
9 if it is a child protection allegation. So have they
10 contacted social work? Have they contacted police?
11 Have they followed their child protection procedure?
12 Because it's child protection and clearly very
13 serious, our system then opens a child protection log,
14 so that's a document that the information from the
15 notification transfers into that and there's certain
16 questions that the inspector needs to answer in that
17 document in terms of following child protection, have
18 they notified authorities that are responsible for
19 investigating child protection?
20 It depends what the allegation is. If it's
21 a historical allegation and that process has been
22 followed in terms of social work being contacted and the
23 referral being passed on to them, we would eventually
24 sign that off and we'd get an update to say that's been
25 dealt with.

1 If it's something that requires a new ongoing
2 investigation, it's quite likely in most circumstances,
3 I would say, that the inspector would contact the
4 service to talk that through, so that we're absolutely
5 assured that the key people have been contacted.

6 We would then be reminding the service that they
7 need to give us an updated notification in terms of the
8 outcome of that and we wouldn't close off the protection
9 log until we know that that investigation has been
10 completed.

11 Q. Is there some kind of trigger that you would -- if you
12 haven't heard from the service, you would ask them for
13 an update?

14 MS JAMIESON: Yes, we would do that. But that would be --
15 the protection log would remind us of that, because it
16 will sit open. Inspectors regularly check on the child
17 protection logs.

18 MS HAPPER: It's pretty annoying.

19 MS JAMIESON: It is annoying for them. Yeah, that would be
20 the reminder to do it.

21 Q. Okay.

22 MS JAMIESON: If we had a notification where we felt that
23 procedures had not been followed in terms of notifying
24 police or social work, we would be contacting the
25 service to have a discussion about that and to ask why

1 not. If we felt it was something that needed to be
2 passed on and the service weren't doing it, then
3 ultimately we would do it. If it was child protection
4 and the service has not followed procedure -- this would
5 be very rare, because that discussion in itself would
6 result in that happening in most circumstances. But if
7 in the event that they were not going to pass that on,
8 we would if it was child protection.

9 Q. Beyond the work that you do on the individual
10 notification, does the material that you do or perhaps
11 don't get by way of notification inform the inspection
12 process in respect of that service?

13 MS JAMIESON: It can do. If we felt there were failures in
14 terms of them following procedures, that would be
15 a concern for us and we would be noting that. We would
16 be having a discussion about it.

17 If it was something that we felt was very serious,
18 we may decide to inspect and we have in other service
19 types where we've seen failures in child protection
20 procedures not being followed. We might inspect at that
21 time.

22 Or we might, once we're satisfied action has been
23 taken, keep a note of that and if we saw any themes
24 coming out, again that would alert us to the fact that
25 we possibly needed to inspect sooner.

1 Q. In terms of volume, presumably if there were a high
2 number of notifications, then that might ring alarm
3 bells?

4 MS JAMIESON: It depends, doesn't it?

5 MS HAPPER: To be honest, I'm more concerned sometimes about
6 services where they don't notify us. Fostering is not
7 usually in that mix, it's more in care homes, and you
8 may get a lot of notifications in a short space of time.
9 They may be about one child or one situation or
10 something. So a high volume doesn't in itself mean
11 something. It always makes you ask the question, but we
12 have some -- again, I can't think of any fostering
13 services in that bag, but I can think of other
14 children's services providers who are what I would
15 certain serial non-notifiers. We sent out
16 a communication, I think it was just -- I'm sorry, maybe
17 a couple of years ago -- Covid time, it's hard to
18 remember. I think it was just pre-Covid. Where we were
19 saying, "Be warned, a lack of notifications is also ..."
20 I think it was when we were launching the new SAT and we
21 were talking about our inspection programme being
22 impacted by a new scrutiny assessment tool and we were
23 saying that a lack of notifications might be something
24 that would make us think about coming and inspecting and
25 impacting on the frequency of inspection.

1 Because we wanted to give a message strongly that --
2 because you don't know what you don't know, so we have
3 to kind of say, well, how many notifications roughly
4 would we want to be expecting to see? If we have
5 a large Local Authority that rarely tells us anything,
6 then that tells me something.

7 Q. In this context, an allegation of abuse might be made by
8 a child who is in foster care but about somebody who is
9 not involved in the foster care placement?

10 MS HAPPER: Yes, absolutely.

11 Q. Perhaps a parent or somebody else.

12 MS HAPPER: It is very common that children will wait until
13 they're in a safe situation before they then talk about
14 something that has happened quite some time ago.
15 Sometimes that gets a bit confused as well, because they
16 may talk about somebody but actually really they're
17 talking about something else, and that's why it's always
18 tricky to unpick, and that needs to be done sensitively
19 and by the right people with the expertise in doing
20 that.

21 Q. In terms of the way that you hold the data
22 notifications, do you identify if, for example, the
23 allegation is against a foster carer or against somebody
24 who has nothing to do with the foster care placement?

25 MS HAPPER: This is quite embarrassing that I'm afraid we

1 can't disaggregate that information, going back, and
2 that's a problem with the way in which our notification
3 system works and aggregates the data.

4 We have a large project on at the moment of trying
5 to update, modernise and make more fit for purpose
6 our -- what's a very complex collection system for
7 things, but it's not possible for us to go back.

8 We looked, to try to see if we could go back and
9 find out what's the proportion of those that were
10 concerning a current carer and so on, and it's just not
11 possible to do that. We would need to open individual
12 logs and that would be thousands and thousands and
13 thousands of logs over a decade.

14 I'm sorry about that.

15 Q. In terms of the disaggregation of data, we heard
16 evidence last week from Professor Biehal and Dr Grant
17 about a report that they had prepared for the Inquiry
18 and some of the material that they looked at had been
19 produced by the Inspectorate in relation to triennial
20 reviews of significant case reviews, where I think
21 you're taking in data or material that's been shared
22 with you and providing an overview, I think for learning
23 purposes.

24 I think you've had an opportunity to review what was
25 said in the report about difficulties in perhaps

1 disaggregating data or knowing whether any of the cases
2 involve foster care.

3 MS HAPPER: (Witness nodded).

4 Q. Do you have any comment on that at the moment or is that
5 something that you'd be able to go away and look at?

6 MS HAPPER: No, I will go away and have a further look at it
7 because it didn't come in until quite late yesterday,
8 but I wasn't -- I'm not sure that the problem there is
9 that we can't find out how many cases there were related
10 to foster care or whether it's that that wasn't the
11 purpose of reporting of the actual report, so it's how
12 we chose to construct the report, or whether it's that
13 there were not cases in foster care.

14 In relation to significant case reviews, we weren't
15 reviewing the cases, we were reviewing the review, so we
16 are dependent on the information that was given to us,
17 but I'm very happy to go away and do that work and come
18 back with an answer about if there is data, particularly
19 from that, around foster care, we will still have it and
20 we will be able to find that.

21 I wasn't sure that it was just that that was --
22 because that wasn't the purpose of the actual report,
23 and so we chose not to write it in that way. We're
24 happy to do that.

25 Q. I just have one more matter to touch on and it's

1 something that you mentioned earlier that I said I would
2 come back to. It's about the adult placement services.
3 Is that an issue for you in practice? You indicated
4 that a child might be with a fostering service up to the
5 age of 18 and then the fostering service, if the child's
6 staying with the foster carer, the fostering service
7 then have to register as an adult placement service
8 again to cover the period post-18. Have you noticed
9 issues in practice with that?

10 MS JAMIESON: Yes, there have been some.

11 As I was explaining, it was necessary for fostering
12 agencies to register an adult placement service in order
13 to enable young people to remain beyond the age of 18
14 with their carer.

15 The Care Inspectorate has been very, very supportive
16 and encouraging of that. We know from research the
17 longer that young people remain in settled family
18 situations is going to improve their longer-term
19 outcomes, so we were very keen to support a way forward
20 to enable that to happen.

21 I think it's perhaps a bit disappointing for us that
22 at the time of the continuing care legislation that
23 there wasn't an opportunity taken to change the
24 fostering legislation that would have enabled young
25 people to remain, without this new service having to be

1 registered. I think these things do have an impact for
2 children that are looked after. You know, particularly
3 if you've been in a family and it is your family for
4 a number of years, and suddenly -- because they do know
5 these things are happening. They all know that their
6 foster carer has been to panel to be approved as
7 an adult placement carer as well as a foster carer,
8 because that's something they now have to do, is that
9 joint approval to enable them to be in those two
10 systems.

11 I think the other thing that's happened is what we
12 hear from the independent sector is that sometimes Local
13 Authorities can be very supportive of children
14 remaining. There's often a discussion, however, around
15 the fees that foster carers are paid, because there's
16 sometimes an argument that children or young people
17 reaching the age of 18 that might be moving into college
18 or employment or something else don't require the same
19 level of care that the foster carer has given previously
20 when they've been younger.

21 I think foster carers will say that often that isn't
22 the case, that supporting young people to remain in
23 education or remain in employment is equally tough,
24 given a young person is developing into an adult and all
25 that goes with that and all that we know that -- you

1 know, that trauma and experience of trauma doesn't
2 disappear because you're entering adulthood and in fact
3 it can reemerge in different ways.

4 Those are some of the kind of practical kind of
5 issues that we've seen, but some foster carers have
6 chosen to -- this isn't a criticism, I think it's
7 actually a strength, that they see fostering as their
8 career, so they have invested in it as a career, so they
9 don't have any other employment. So suddenly some
10 foster carers have seen their fees reduced because Local
11 Authorities are saying, "We don't think we need to pay
12 you the same". That's created sometimes some tension or
13 some financial issues for foster carers.

14 But we've also had examples of Local Authorities
15 approaching foster carers to say, "Now that you're no
16 longer fostering, we want you to come over to our adult
17 placement service and be an adult placement carer for
18 us". These kind of tensions and situations I think have
19 sometimes been quite stressful for carers and for
20 fostering agencies, who have been providing that support
21 to their carers for sometimes a long period of time.

22 I think ultimately although you can try and keep
23 these issues away from young people, they know what's
24 happening in their families and they hear the
25 discussions and they're aware of situations like that.

1 As I say, there's been situation where is it has
2 been seamless in terms of finance, but it's not been
3 seamless in terms of registration, and I think it added
4 a complexity to fostering that possibly could have been
5 avoided if the legislation had dealt with it in
6 a different way.

7 Q. Okay, thank you, and thank you for suggesting on
8 a couple of occasions, I think, that you would review
9 certain issues for us and come back.

10 MS HAPPER: (Witness nodded)

11 Q. If you were either asked to give further evidence at the
12 end of this case study or provide further information in
13 writing, I take it there's no difficulty with that?

14 MS HAPPER: Not at all, would be very happy to do that.

15 MS INNES: Thank you very much.

16 LADY SMITH: It remains for me to thank you both for your
17 commitment to the tasks, tasks in the plural, we have
18 set you. I don't underestimate the amount of time and
19 effort that that has taken, but it's of enormous value
20 to the work I'm doing here. Thank you very much.

21 MS HAPPER: Thank you very much. We're really grateful for
22 the opportunity to engage with the Inquiry.

23 Thank you.

24 MS JAMIESON: Thank you.

25 LADY SMITH: I'm now able to let you go.

1 (The witnesses withdrew)

2 (1.10 pm)

3 (The luncheon adjournment)

4 (2.00 pm)

5 LADY SMITH: Good afternoon. I think we should be ready to

6 move on to the SSSC, is that right, Ms Innes?

7 MS INNES: That's correct, my Lady. Maree Allison is the

8 next witness.

9 LADY SMITH: Thank you very much.

10 Ms Maree Allison (sworn)

11 LADY SMITH: We did use your first name to address you last

12 time and I have just assumed that's okay this time

13 around, is that all right, Maree?

14 A. Yes, of course, my Lady.

15 LADY SMITH: Thank you. You know how we work. You have

16 a hard copy, you'll see documents on screen as well.

17 Use either or neither as feels comfortable to you. Do

18 let me know if you have any questions or queries, if you

19 need a break. Otherwise, if you're ready, I'll hand

20 over to Ms Innes and she'll take it from there. Is that

21 okay?

22 A. Thank you.

23 LADY SMITH: Ms Innes.

24 Questions from Ms Innes

25 MS INNES: Thank you, my Lady.

1 Maree, as her Ladyship has said, I think you have
2 given evidence to the Inquiry before, I think last on
3 18 March 2021 --
4 A. Yes.
5 Q. -- in relation to another area of the Inquiry's work.
6 From that, we know that you were a solicitor in private
7 practice, I think up until 2010?
8 A. Yes.
9 Q. Then you joined the SSSC initially as a senior solicitor
10 in the fitness-to-practise function and since 2015
11 you've been the director of regulation?
12 A. Yes, that's right.
13 Q. I understand that that involves you having
14 responsibility for registration and fitness-to-practise
15 functions of the SSSC?
16 A. Yes, that's correct.
17 Q. In the context of this case study, the SSSC were asked
18 to assist the Inquiry in relation to two matters, and
19 you provided a brief report dealing with those. If
20 I could ask you, please, to look at SSC-000000011,
21 please, and if we go to page 2, under the introduction
22 you note that the SSSC is the regulator for the social
23 service workforce in Scotland. You've obviously already
24 given evidence about the background and history of the
25 SSSC in relation to your previous evidence.

1 A. (Witness nodded)

2 Q. You note that you do not regulate foster carers?

3 A. Yes, that's correct.

4 Q. You regulate social workers, for example, but not foster

5 carers?

6 A. Yes.

7 Q. This submission focuses on two areas of interest, you

8 say.

9 Firstly, fitness-to-practise cases about a social

10 worker's practice relating to foster care?

11 A. Yes.

12 Q. Was that something that you were asked to focus on by

13 the Inquiry?

14 A. Yes, that's right.

15 Q. Then, secondly, the development of foster care

16 standards?

17 A. Yes.

18 Q. Can we deal with each of these in turn then, please? If

19 we go on to page 3 of your report, in the first

20 paragraph you say that you agreed with the Inquiry that

21 you would review your fitness-to-practise data for

22 referrals about social workers arising from their

23 failure to protect or respond to allegations of abuse

24 made in the foster care setting.

25 First of all, you set out some figures. Can you

1 explain what those are?

2 A. Yes, we set out the number of social workers on our
3 register and then the number of referrals we had
4 received, so at the time that we compiled this report we
5 had 10,766 social workers on our register and we'd
6 received and then closed 2,478 referrals about those
7 social workers, spanning the period 2008 to 2021.

8 Q. You noted out of those referrals, you say you still had
9 some open referrals, 131, so that would be ongoing
10 referrals?

11 A. Yes, that's right.

12 Q. Then you note the number of closed referrals that
13 concluded with a sanction, that's 269?

14 A. Yes.

15 Q. Okay. When you started your search for the material
16 that the Inquiry had asked for, was it those 269 closed
17 referrals that you were looking at?

18 A. Yes. It was just those ones.

19 Q. Okay. You then explain a little bit about how your
20 system categorises fitness-to-practise referrals and you
21 say that's by the part of the senior worker is
22 registered on. You say:

23 "Apart from social workers, our register is
24 function-based."

25 When you're looking at social workers, are they just

1 all in one group together as social workers?

2 A. Yes, that's right. As we don't register foster carers,
3 we don't have any specific link into foster care
4 services, so our social workers who work across a range
5 of different areas, but predominantly they work within
6 Local Authorities, don't have the level of data that
7 would enable us to really precisely extract those that
8 are working in foster care services.

9 Q. Okay.

10 First of all, you're looking at all of the social
11 workers, so you said 10,000, and then you're narrowing
12 that down eventually to the number of 269 referrals --

13 A. (Witness nodded)

14 Q. -- where there was a sanction. You I think then go on
15 to explain that you carried out -- rather than going
16 through each individual referral, which would be all
17 269, you focused your search on certain areas of your
18 fitness-to-practise categories. Is that right?

19 A. Yes, that's right. When a case closes, we mark on the
20 system what category of practice or conduct that the
21 referral generally fell into. Obviously a referral may
22 span a number of different areas, but we ask staff to
23 identify the primary cause of concern that led to the
24 investigation and the sanction and we've set out here in
25 this report the general categories. Each category then

1 has a number of subcategories under it that we use.
2 Many of them focus on conduct matters such as behaviour
3 outside work, criminal behaviour, dishonesty, but we
4 also do have categories that are about practice and
5 practice failings, and that was the category that we
6 honed in on amongst those 269 cases that had concluded
7 with a sanction.

8 Q. Okay, so in the table that we can see, there are
9 categories and then related subcategories.

10 The first one on the list, behaviour outside work,
11 would be the category that would be attached to the
12 record --

13 A. (Witness nodded)

14 Q. -- and then there are various subcategories within that
15 to make it a little bit more specific?

16 A. Yes, that's right.

17 Q. If we go over the page to page 4, we can see there
18 management failings, and there are subcategories there:

19 "Failure to follow safe recruitment, failure to
20 supervise staff and other management failings."

21 Then practise failings:

22 "Failure to follow procedures, failure to prepare
23 reports, records not maintained, service user neglect,
24 visit frequency not complied with and other practise
25 failings."

1 Are these the categories that you focused your
2 search on when looking for relevant material?

3 A. Yes, they are.

4 Q. Why did you focus on the management failings and
5 practise failings?

6 A. Because it is most likely that if a social worker during
7 their practise had failed to act on allegations of abuse
8 in relation to what the Inquiry's interested in in this
9 phase, it would be one of those categories that the case
10 holder at the conclusion of the case would mark.

11 Q. Okay. If we just go below the table now, please, you
12 explain a little bit more about when you impose
13 sanctions.

14 First of all, they obviously have to meet the test
15 for misconduct.

16 A. Yes.

17 Q. Secondly, sufficient evidence on the balance of
18 probabilities to prove the allegation.

19 Then, thirdly, there is current impairment to
20 fitness to practise.

21 A. Yes.

22 Q. If it was a historical allegation, for example, and the
23 social worker was no longer in practise, would that come
24 before you? Would a sanction be imposed?

25 A. It would depend on the circumstances. So in determining

1 current impairment, the case law develops a number of
2 factors that would be relevant and we have a decisions
3 guidance document which also sets out factors for people
4 to consider. You would take into account how long ago
5 something had happened, but you'd also take into account
6 an individual's reflection, any training and development
7 they had carried out since, but really importantly the
8 seriousness of the misconduct or deficient professional
9 practice would also be considered, so you could have
10 something a long time ago where there had been
11 remediation and reflection and training, but the
12 seriousness of it was such that it would still be
13 appropriate to take action.

14 So it's very fact and circumstance specific.

15 Q. Then, finally, you would have to take the view that it's
16 proportionate to impose a sanction. Can you explain
17 a little bit about that, please?

18 A. Yes. There may be circumstances where perhaps
19 an individual, due to their health, for example, they
20 were very much not going to be working anymore or ever
21 again and would it be proportionate in those
22 circumstances to impose a sanction? Always there has to
23 be consideration of proportionality before making
24 a decision.

25 LADY SMITH: In such a case, the person would, though, still

1 be on your register? Is that right?

2 A. In the scenario I'm thinking of, we would be proposing

3 that an individual who's perhaps terminally ill, we

4 would conclude the investigation and remove them from

5 the register.

6 MS INNES: Below there we see that you note that you agreed

7 with the Inquiry that you would focus your search on the

8 referrals about social workers where you'd imposed

9 a sanction and where the misconduct related to failing

10 to act on information about abuse of a young person in

11 foster care.

12 A. (Witness nodded)

13 Q. To do that, you say that you individually reviewed 66

14 sanction referrals where the misconduct was categorised

15 as practise failings or management failings and

16 identified three relevant referrals. So from what we

17 saw in the table, out of the 269, am I right in thinking

18 that 66 of those were in relation to management and

19 practise failings?

20 A. Yes.

21 Q. You then carried out a detailed review of those cases --

22 A. Yes.

23 Q. -- to see if they related to foster care?

24 A. Yes.

25 Q. You then say that you carried out a further review of 41

1 social work sanction referrals which didn't contain
2 misconduct categorisation data. Can you explain that,
3 please?

4 A. When we provided our initial information to the Inquiry,
5 the Inquiry highlighted to us that they were aware of
6 a case where we had concluded with a sanction relating
7 to a social worker where the issues were to do with
8 failing to act on behaviour around abuse in a foster
9 care setting, so that did highlight that the search we
10 had initially carried out hadn't captured everything, so
11 we carried out a further review of social work sanction
12 referrals that we thought could fall within this
13 category and identified a further three that were
14 relevant to the Inquiry.

15 Q. So the case that was highlighted to you by the Inquiry
16 obviously hadn't come up in your original search. Did
17 it not have any misconduct categorisation applied to it?

18 Or --

19 A. I will need to double-check and come back to you on
20 that. I think it may have pre-dated some of our
21 categorisation information, but I will check that and
22 come back.

23 Q. Okay. But in any event, you say that that resulted in
24 you looking for other cases that fell into the same
25 category or situation?

1 A. Yes, that's right.

2 Q. You say that you identified three relevant referrals
3 from that?

4 A. Yes.

5 Q. That, I assume, includes the case mentioned to you by
6 the Inquiry?

7 A. Yes, that's right.

8 Q. And then you say:
9 "Of the six relevant referrals, only case 3 relates
10 to a social worker working for a foster care service."

11 A. Yes.

12 Q. "The other five cases are social workers working for
13 Local Authority ..."

14 A. Yes.

15 Q. When you looked at the cases, you have obviously looked
16 at the summary of misconduct?

17 A. Yes.

18 Q. Can you just explain a little bit about that?

19 A. Yes. We've looked at a summary of the allegations that
20 were found to be proved in relation to the six cases and
21 we have detailed that summary within the table that is
22 later in the document.

23 Q. You say:
24 "Where the failing relates to foster care, we have
25 highlighted the misconduct in grey."

1 A. Yes, for some of -- well, for five of the cases, the
2 failings spanned the social worker's work across their
3 children and families role, so some of the failings
4 related to children who weren't in foster care but were
5 subject to other child protection procedures.

6 Q. If we go on there to page 5, we can see this at the
7 beginning of this table.

8 The first case that you identified was a date of
9 referral in 2008 and the sanction was removal. You note
10 various failings. There's some shaded in grey, so:

11 "Properly record and follow up on health and
12 development concerns raised by foster carers.

13 "Carry out a background check on an individual who
14 had unsupervised contact with a child in foster care."

15 A. Yes.

16 Q. Those were the findings that you identified as being
17 relevant to foster care. The other findings were their
18 general children and families work?

19 A. Yes, that's right.

20 Q. Okay.

21 The second case that you identified I think we see
22 in 2012, a sanction: warning and conditions. I assume
23 that is what it says, so some kind of conditions are
24 applied to the person's practice?

25 A. Yes, normally the conditions are about requiring to

1 carry out further training, development, reflection in
2 order to address the concerns that had been established.

3 Q. This was a breach of confidentiality and you say it's:
4 "Providing foster carers who were under police
5 investigation with confidential police information about
6 the nature of injuries to a child in their care."

7 A. Yes.

8 Q. That looks as though it was in the context of an injury
9 suffered to a child in foster care?

10 A. Allegedly suffered, yes.

11 Q. Then case 3, a 2013 referral. This is removal. You
12 note there:
13 "Failures to review foster carer logbooks.
14 "As a result, fail to identify concerning and
15 potentially abusive behaviour by a foster carer."

16 A. Yes.

17 Q. Is this the case -- I think case 3 is the one that is in
18 relation to a fostering agency rather than a Local
19 Authority?

20 A. Yes, that's right.

21 Q. Is this the case that was drawn to your attention by the
22 Inquiry?

23 A. It is.

24 Q. Then case 4, 2013, again removal. Here we have
25 failures, a number of points in relation to an

1 allegation of sexual abuse, but that's not in grey, so
2 I assume your records show that that relates to abuse
3 suffered outwith the foster care setting?
4 A. Yes, that's right.
5 Q. The failure in relation to foster care was to:
6 "Implement ICPCC instructions that a child should
7 remain accommodated with foster carers until further
8 assessment."
9 A. Yes.
10 Q. Perhaps something a little bit different here, that it
11 looks as though the children should have been remaining
12 with the foster carers?
13 A. Yes, that's right.
14 LADY SMITH: Remind me, ICPCC stands for?
15 A. I think it's Initial Child Protection Case Conference.
16 LADY SMITH: Thank you.
17 MS INNES: Case 5 in 2016, warning and condition, and again
18 there's various failures which are, I think, not in the
19 foster care setting. If we go over the page, the issue
20 in relation to foster care was to fail to:
21 "Take action after a report from a residential unit
22 that the child was having contact with previous foster
23 carers which led to fixation with their grandson."
24 That seems be the only issue that you've identified
25 relevant to foster care in that case.

1 A. Yes, that's right.

2 Q. Then case 6, the final case, we have a referral from
3 2016, removal, and failures to do various things, and
4 the one in relation to foster care was to:

5 "Record a telephone call from the foster carer
6 reporting that the service user had been drinking and
7 had sex with the foster carer's grandson."

8 So a couple of issues in there, the issue directed
9 at the social worker was essentially a failure to record
10 a report?

11 A. Yes, that's right.

12 Q. From your searches, were these the only cases that you
13 were able to identify within your systems that disclosed
14 fitness-to-practise issues in relation of social workers
15 relevant to foster care?

16 A. Yes. I should say though it is possible there is
17 something in there we haven't been able to locate, but
18 I did do a search on the word "foster" as well and
19 trying to go through all the documents and just do
20 a check to try and ensure we'd captured everything, so
21 I am hopeful that is everything.

22 Q. Thank you.

23 I'd like to move on to the second part of your
24 report at page 7, where you talk about the Standard for
25 Foster Care. We know from other evidence that the SSSC

1 prepared something called the Standard for Foster Care,
2 I think, which was published in about 2017.

3 A. Yes.

4 Q. I want to look at some of the background to that.

5 First of all, do you know why it was, given that you
6 don't regulate foster carers, that you were asked to
7 prepare a standard in relation to the training of foster
8 carers?

9 A. Yes. Under section 58 of the Regulation of Care Act,
10 there is provision around Scottish Minister ascertaining
11 information about education, training, adequate
12 provision of education and training for the workforce as
13 a whole, not just the parts we register, and Scottish
14 Ministers had delegated functions to us relating to
15 that.

16 We are also a sector skills council, which means
17 that we have a role within training and development of
18 the sector and it's part of the reason why we
19 established work with the National Occupational
20 Standards that underpin qualifications, so we do have
21 a broader remit than just our registrable roles in terms
22 of workforce development and it's not uncommon for the
23 Scottish government to ask us to develop particular
24 resources that support the sector as a whole, because we
25 do have that particular expertise.

1 Q. Can I take you to some of the documents that gave rise
2 to this.

3 First of all, SGV-000076751. This is a document
4 called, "Moving Forward in Kinship and Foster Care",
5 which if we scroll down a little, was published in
6 September 2008.

7 A. Yes.

8 Q. I think you've had an opportunity to review this
9 document and the other material that I'm going to come
10 to in a moment?

11 A. I have, thank you.

12 Q. If we can just look at some of the relevant material,
13 first of all on page 8, do we see there that the
14 background to the strategy:

15 "In December 2007, after a period of consultation
16 about a national fostering and kinship care strategy,
17 the government in Scotland published a further document
18 'Getting It Right for Every Child in Kinship and Foster
19 Care' ..."

20 That was going to be referred to as 'the Strategy'
21 going through this document.

22 If we scroll down just above the bullet points you
23 can see on the screen, do we see:

24 "This report presents the outcome of the work of the
25 reference group over the months since the launch of the

1 report. The particular areas of work allocated to the
2 reference group were ..."

3 The third bullet point:

4 "To assess the training requirements for kinship and
5 foster carers in the light of the strategy and the
6 introduction of permanence orders."

7 A. Yes.

8 Q. Is it your understanding that this is the start of the
9 process that then led to the standard?

10 A. Yes, I think that's right.

11 Q. Okay. If we can look back in fact a little bit, please,
12 just to the summary, so at page 6, which is entitled,
13 "The vision for kinship and foster care". If we could
14 scroll towards the bottom of the page, please, the first
15 bullet point that we can see now:

16 "The capability of foster carers should be enhanced
17 with training and support, and they should be valued as
18 part of the children's workforce."

19 A. Yes.

20 Q. Did you understand that that was the goal of what
21 ultimately became the standard?

22 A. Yes.

23 Q. If we can look on to page 7, please, "Recommendations
24 for action":

25 "To improve outcomes for children in kinship and

1 foster care the following actions are required."

2 If we can look to the fourth bullet point that we
3 can see there:

4 "Foster carers need to be trained, valued and
5 included in the children's workforce."

6 Then, secondly:

7 "Investment in a central training resource for
8 foster carers is essential to create more opportunities
9 for them to participate in training and to gain
10 qualifications."

11 Was the idea of the standard to produce this central
12 training resource or something else?

13 A. I think it was to produce something that provided that
14 consistency across quite a varied sector in terms of
15 provision.

16 Q. If we can look on to page 53, please, where the issue of
17 training is being discussed and if we can look at the
18 conclusions and recommendations there, there's reference
19 to some conclusions and then in the recommendations,
20 first bullet point:

21 "A mandatory post-approval training programme should
22 form part of the national strategy."

23 A. (Witness nodded)

24 Q. Is it your understanding that the standard was going to
25 be a mandatory programme or not?

1 A. Not having been involved in the development personally
2 and from the paperwork I have reviewed, I don't think
3 I can establish if at the point the SSSC was instructed
4 it was intended to be mandatory. I do know at the point
5 that it was published, the decision from Scottish
6 Government is it would not be mandatory.

7 Q. Thank you.

8 The second recommendation there:

9 "An umbrella organisation (based on the model,
10 expertise and experience of SIRCC) [I think that's in
11 respect of residential childcare] be formed who would
12 plan, deliver and monitor the training provision for
13 foster care."

14 Is it your understanding that the SSSC were to have
15 a role like that, that they were to do any of these
16 things, plan, deliver and monitor the training?

17 A. I don't think I've read in the paperwork relating to it
18 a request from government that we would be involved in
19 delivery of training provision. That isn't something
20 that we do. My understanding is our remit was very much
21 drawing upon our expertise around the qualifications
22 using the National Occupational Standards that span
23 across all of the qualifications for people working in
24 children that we register and bring the training for
25 foster care within that remit.

1 MS INNES: Thank you.

2 LADY SMITH: Do you know why the decision was taken not to
3 make the training mandatory?

4 A. No, I'm sorry, I don't know. Although from reading
5 the -- particularly the consultation we carried out, you
6 can see that there are quite mixed views and concerns
7 about the capacity of foster carers to undertake
8 training, their desire to undertake more formal type
9 qualifications, and also concerns about how such
10 training would be assessed and who would carry that out
11 and who had the resources to implement the carrying out
12 of assessment of that training. There is something that
13 is very resource-focused, certainly in the consultation
14 responses.

15 LADY SMITH: Thank you.

16 MS INNES: If we can move on to the next document,
17 SGV-000081333, which I think is the National Foster Care
18 Review published in December 2013. If we can look on to
19 page 25, if we go down the page a little, we'll see the
20 recommendation, "Training qualifications and standards",
21 and there we see the recommendation was:
22 "The Scottish Government to commission a national
23 learning and development framework for foster care,
24 underwritten by new National Care Standards fostering or
25 regulations. The framework should include two mandatory

1 courses (at preparatory and induction stages) for new
2 carers, and a mandatory programme of continuous skills
3 and knowledge development for experienced carers. The
4 framework should be accredited with progress through the
5 stages providing carers with the opportunity to obtain
6 qualifications. The framework should apply to all
7 fostering agencies operating in Scotland, and while it
8 will establish minimum standards in respect to the
9 provision of learning and development (and supervision),
10 agencies should continue to set goals for their carers
11 above those set out in the framework."

12 There's obviously quite a lot in that
13 recommendation, but the commissioning of a national
14 learning and development framework, is that what the
15 standard is?

16 A. Yes, that's right.

17 Q. If we look on to the next page, please, to page 26,
18 paragraph 50, there's reference there -- in the middle
19 of that paragraph -- to the purpose:

20 "If implemented fully they offer the opportunity for
21 much greater collaboration between fostering agencies,
22 which could reduce duplication and improve carers'
23 accessibility to training and support. At the same time
24 ... [it] should not restrict fostering agencies'
25 capacity to develop their own training for carers, or

1 their use of preparatory and other groups for the
2 purpose of assessment."

3 Again, did that form part of the background that was
4 then taken forward in making up the framework?

5 A. Yes, that's right, and I think the standard itself talks
6 at the beginning about the aim around trying to make it
7 standardised in consistency for foster carers.

8 LADY SMITH: Has the collaboration referred to there
9 happened in practice?

10 A. Certainly the consultation that we carried out in 2016
11 was an extensive consultation that I think many groups
12 were engaged with. We published the standard in 2017
13 and I don't think it has really been something that has
14 been embedded and working in the way that is envisaged
15 in paragraph 50 there.

16 LADY SMITH: Am I to take it that what was envisaged was
17 perhaps neighbouring Local Authorities getting together
18 to arrange training jointly that would be available to
19 those who need it?

20 A. I mean that does seem what is suggested by that.
21 I certainly don't have knowledge of how much
22 collaboration there is amongst authorities, either pre
23 or post the standard.

24 LADY SMITH: It sounds like a good idea, but might be
25 difficult to organise.

1 A. Yes.

2 LADY SMITH: Thank you.

3 MS INNES: If we can look on in this document to page 27,
4 and paragraph 54, there's reference there to the
5 National Occupation Standards, which you've already
6 referenced in your evidence. Can you just explain that,
7 please?

8 A. Yes. The National Occupational Standards are a suite of
9 standards, and for us we develop them across the
10 workforce that we regulate, which sets out key levels of
11 standards to achieve and then the qualification sort of
12 maps into that. So you have certain levels of
13 qualification and the National Occupational Standards
14 underpin them, so it gives a consistency for everyone
15 working across the sector carrying out different
16 qualifications, that they all come back to this
17 underpinning level of standards.

18 Q. If we can look a little bit further down this page, in
19 paragraph 55, I think we see at the end of that
20 paragraph reference to the framework's contents should
21 be organised in accordance with the well-being
22 indicators, the SHANARRI indicators?

23 A. Yes.

24 Q. Was that something that was taken into account when the
25 standard was prepared, do you know?

1 A. I can't comment specifically on that, but I think the
2 National Occupational Standards take into account the
3 Getting It Right for Every Child and SHANARRI.

4 Q. Then at paragraph 56, I think we see there that the
5 framework:

6 "... must not be limited to a package of course
7 materials, it should be a system that ensures a measure
8 of standardisation across all fostering agencies,
9 quality assured course delivery, and opportunities for
10 accreditation."

11 A. Yes.

12 Q. There seems to be reference there to the idea of it
13 being underpinned by agreements with SQA, so presumably
14 there would be some sort of qualification? Is that what
15 ultimately happened or not?

16 A. The intention was it would allow people to achieve
17 levels of qualification if they wished to take it in
18 that route, but it would also support people who didn't
19 want to actually go on to an assessed qualification to
20 obtain the core skills that they needed.

21 So it was supposed to bring foster carers into that
22 qualification route and the career pathways that are
23 opened up from that, if that's a route that they wanted
24 to take.

25 Q. Again if we can look over the page, please, at page 28,

1 paragraph 57. You've mentioned the consultation which
2 you carried out, which we'll come onto in a moment. The
3 review seems to have engaged with foster carers and it's
4 noted that they found a strong minority in favour of the
5 framework --

6 A. (Witness nodded).

7 Q. -- with them suggesting, I think it goes on to say, that
8 all foster carers should receive the same preparatory
9 courses.

10 A. Yes.

11 Q. Was that consistent with the findings of your
12 consultation or perhaps your consultation was looking at
13 different things?

14 A. I think that does link in with our consultation, which
15 had a very strong positive response to the proposed
16 standard and what would be contained within it, and that
17 consistency approach. I think as I said, the concerns
18 that came up through our consultation were more about
19 how you would implement it rather than the standard
20 itself.

21 Q. Okay. If we look down on this page, please, to
22 paragraph 59, we see there it says:

23 "A number of general comments were made about the
24 proposed ... framework by foster carers ... and in
25 response to the interim progress report. Particular

1 concern was voiced about losing good, experienced foster
2 carers who may not have the capacity (or the desire) to
3 undertake formal learning. However, it should be noted
4 that the review has not expressed the wish to instate
5 formal qualifications for each foster carer, and the
6 level at which the pre-approval and induction courses
7 are likely to be pitched will not be significantly
8 different from what is currently offered by most
9 fostering agencies."

10 From what you've said, that would seem to resonate
11 with findings that you made in your own consultation?

12 A. Yes, that's right.

13 LADY SMITH: So, really, is the picture I'm to get one of
14 foster carers not being pushed to obtain
15 a qualification, but there being routes available to
16 them for some qualification if they have an appetite for
17 it?

18 A. Yes, that's right.

19 LADY SMITH: Thank you.

20 MS INNES: At paragraph 61 do we see reference there:

21 "In response to the concerns about barriers
22 (identified by foster carers in the online survey), the
23 review acknowledges that there needs to be a mixture of
24 methods, for instance web-based learning ... greater
25 accessibility of learning and development to foster

1 carers to accommodate for timing or rural location."

2 That seems to be more about delivery of the training
3 as opposed to the fact of the standard itself?

4 A. Yes, that's right. The standard is designed to be
5 delivered in a variety of different ways; it's not
6 prescriptive.

7 Q. If we go over the page again to page 29, paragraph 62,
8 it says:

9 "Critically, the review encourages the fostering
10 sector in Scotland to see the national learning and
11 development framework as a continuously evolving
12 document, being reviewed and refreshed regularly (i.e.
13 on a three-yearly basis)."

14 Since it was published in 2017, has it been
15 reviewed?

16 A. No, it hasn't, and we haven't had a request from
17 government to carry out a review.

18 Q. Would I be right in thinking that you wouldn't just do
19 that of your own volition, you would have to be
20 requested to do that by government?

21 A. Yes, that's right.

22 In advance of this phase of the Inquiry we did carry
23 out some light-touch research to establish what is
24 happening in the sector with the standard, which just
25 involved speaking to a variety of different services and

1 training providers. The feedback that we had was very
2 much that some people weren't aware that the standard
3 had actually been published, some people thought that it
4 had been paused awaiting the outcome of the Independent
5 Care Review. Generally, it seems that it isn't
6 something that is a living document within the sector.

7 Q. Can I ask you to look on to the next document in the
8 chronological series, so SGV-000081334, which I think is
9 the Scottish Government response to the findings by the
10 Foster Care Review. If we go on to the bottom of
11 page 5, on to page 6. At the bottom of page 5 we see
12 reference to recommendation 4 there. If we go on over
13 the page to the government response, I think we see that
14 it's said:

15 "We accept the recommendation to develop a framework
16 which specifies the mandatory learning and development
17 requirements for foster carers."

18 Then it goes on there. I think at the end of that
19 paragraph that we can see on the screen:

20 "Finally we agree with the review's proposition that
21 there are further advantages to having a number of
22 standardised courses and requirements when it comes to
23 agencies collaborating on the provision of learning and
24 development opportunities. The possibility of sharing
25 this could allow a reduction in waiting time for foster

1 carers to take part and may reduce the cost of providing
2 these ... opportunities."

3 That seems to have been the government's position at
4 that time.

5 A. Yes.

6 Q. Then they talk about, in the next paragraph, the working
7 group that they put together.

8 Then in the final paragraph, do we see that it says:

9 "To help fostering agencies implement the training
10 requirement, the Scottish Government will ensure that
11 courses meeting the standard are set out in the
12 framework are offered through a range of appropriate
13 delivery methods to support accessibility across
14 Scotland."

15 Quite apart from whether it's mandatory or not, do
16 you know from the enquiries that you've made as to
17 whether this has been implemented? Whether there's
18 government support of courses meeting the standard?

19 A. From the enquiries we made, I don't think so, but
20 I should be cautious that we did only contact a few
21 agencies.

22 Q. Okay. If we can move on, please, to SGV-000081332, and
23 this is an:

24 "Outline of work to be carried out on the
25 development of induction and learning and development

1 routes for foster carers".

2 I think this is the outline that then set in motion
3 the SSSC's involvement?

4 A. Yes.

5 Q. If we look to the bottom of this first page that we're
6 on, so below the recommendation, I think we see there:

7 "Scottish Government accepted the recommendations
8 and requested the SSSC to undertake this work in its
9 capacity ..."

10 As you've explained already in your evidence?

11 A. Yes.

12 Q. If we can go on to page 3 of this, at the bottom of this
13 page there's a heading:

14 "Specification of structures."

15 And then it says:

16 "The Foster Care Review and SG recommendations
17 specify a number of requirements of the new structure."

18 Then if we go on to the next page, I think we see
19 certain bullet points.

20 It needed to be written underwritten by the Care
21 Inspectorate National Care Standards and based on the
22 National Occupational Standards, which we've already
23 mentioned.

24 The second bullet point:

25 "The framework will be mandatory and a condition of

1 approval for foster carers."

2 That seemed to still be the government's intention

3 at that point of the outline.

4 A. Yes.

5 Q. They were suggesting that this requirement would be

6 achieved through an amendment to the relevant

7 looked-after children regulations?

8 A. Yes.

9 Q. But I think you're aware that that's never happened in

10 terms of the regulations?

11 A. That's right.

12 Q. Then there were to be two mandatory courses,

13 a preparatory and induction course and then a programme

14 of continuous skills and knowledge development. Is that

15 what the standard then went on to develop?

16 A. Yes, it did.

17 Q. Then there are various other bullet points saying what

18 the framework must do.

19 Then under, "Outline of work", so further down the

20 page:

21 "Project activity will follow the following process

22 and structure."

23 First of all:

24 "The SSSC will commission independent consultants to

25 scope the qualifications held by foster carers."

1 Did the SSSC go on and do that?

2 A. Yes, we did.

3 Q. If we can leave that document now, please, and go on to

4 SGV-000084525. Do we see here something called:

5 "Informing the learning and development framework

6 for foster carers in Scotland."

7 By Dr Linda Green and Victoria Wholey?

8 A. Yes.

9 Q. December 2014?

10 A. Yes.

11 Q. Was that commissioned by the SSSC following the Scottish

12 Government's outline that we've just looked at?

13 A. Yes, it was.

14 Q. If we can just look on first to page 3 of this, I think

15 we see at the top that it confirms that it was

16 commissioned to inform the SSSC's development of the

17 learning and development framework.

18 A. (Witness nodded)

19 Q. If we go on to page 4, please, if we go just down the

20 page to number 3:

21 "The aim of the project was to inform the SSSC's

22 development of the learning and development

23 framework ... but carrying out survey and other research

24 which identified existing qualifications and learning

25 development opportunities currently available to and

1 undertaken by foster carers in Scotland [and] foster
2 carer and foster carer agency views about the content of
3 the learning and development framework for foster carers
4 in Scotland."

5 When you were referring earlier to your
6 consultation, is this the research that you were
7 referring to or is it a subsequent consultation?

8 A. A subsequent consultation.

9 Q. Okay.

10 A. Although this informed that subsequent consultation,
11 this research did.

12 Q. For example, if we go on to page 12 of this document,
13 there's a table suggesting learning and development
14 opportunities and then a breakdown of different
15 categories.

16 A. Yes.

17 Q. So after application but pre-approval, after approval
18 and before the first annual review, and then after the
19 first annual review?

20 A. Yes.

21 Q. Was that to reflect the different stages at which
22 different types of training might be delivered?

23 A. Yes, that's right.

24 Q. Then I think this table sets out different areas in
25 which either foster carers or agencies responding

1 thought that training would be helpful?

2 A. Yes.

3 Q. At the top of the list, if we go down, it seems to be

4 organised with the most common or most popular answer at

5 the top, so attachment theory at the top of the list?

6 A. Yes, that's right.

7 Q. Then child development, dealing with managing aggressive

8 behaviours and suchlike, following on.

9 A. Yes.

10 Q. Is this the sort of material that the SSSC then used to

11 inform the standard?

12 A. Yes, that's right. This is a really important piece of

13 research that I think then went into the work to develop

14 the draft standard and the draft standard was then

15 consulted on formally by SSSC.

16 Q. Okay. If we can move on to that consultation now,

17 please, that's at SSC-000000012 and this was issued,

18 I think we can see, in February 2017. If we go on to

19 page 4, there's a list at the bottom of the page of the

20 questions which were asked in the consultation.

21 A. Yes.

22 Q. This was providing a draft standard, as you've said, and

23 people were providing comments on the draft at this

24 point?

25 A. Yes, that's right. This report is summarising the

1 comments that we received on the draft.

2 Q. Okay. The substantive questions that you asked were

3 firstly:

4 "Does the new standard sufficiently reflect the

5 knowledge, understanding and skills required by foster

6 carers?

7 "2. After introduction of the standard, how long do

8 you think foster carers will need to achieve learning

9 based on the standard?"

10 And, thirdly, what support might be most helpful for

11 the foster carer to achieve the knowledge, understanding

12 and skills set out in the standard?

13 A. Yes.

14 Q. Some of these questions do seem to go beyond the

15 standard itself, so the first question seems to be based

16 on the draft itself --

17 A. Yes.

18 Q. -- whereas 2 and 3 are obviously -- it seems to be

19 looking more to implementation or delivery?

20 A. That's right.

21 Q. Do you know why it was that the SSSC consulted in

22 relation to these matters?

23 A. The work that we carried out in developing and

24 consulting on the standard was done under the auspices

25 of the reference group that was established coming out

1 of the Foster Care Review, so that reference group was
2 chaired by the Foster Care Review and membership did
3 include Scottish Government, CELCIS, the Care
4 Inspectorate, Social Work Scotland, foster carers
5 themselves and COSLA.

6 That group had the oversight and steered us as to
7 things like what would be the appropriate questions to
8 ask. My understanding is that the questions that were
9 posed had come out of discussions with that group. So
10 it was considered that these were the important things
11 that we needed answers to, or that they needed answers
12 to.

13 Q. If we can just look again backwards to the words of the
14 executive summary, so page 2 of the document. The first
15 paragraph I think indicates its length of the
16 consultation, it was a 19-week consultation, and the
17 number of responses received.

18 A. Yes.

19 Q. It's noted that you received a range of views, but in
20 the main, the respondents were positive and constructive
21 about the draft?

22 A. Yes.

23 Q. Then in relation to the first question, does it
24 sufficiently describe the knowledge, understanding and
25 skills required? The majority positive there?

1 A. Yes.

2 Q. There were some issues about the language in the draft
3 at that point and there's a concern in the final bullet
4 point:

5 "Some foster carers would be unable to achieve the
6 learning set out in the draft standard."

7 A. That's right.

8 Q. It's noted below that:

9 "The last two points reflect the academic language
10 used in a technical standard."

11 Can you explain that a little, please?

12 A. I think that when looking at the standard, the language
13 used is directed often at people who are very familiar
14 with that learning and development environment rather
15 than the people who will be actually undertaking it. So
16 it's quite common to see that type of feedback in
17 a consultation, yes.

18 Q. Then in the next paragraph there's a comment about:

19 "Many participants provided examples of excellent
20 carers who would not be inclined to take a qualification
21 or a more demanding level of study ... than the training
22 they currently undertake."

23 A. Yes.

24 Q. Does this go back to this issue about a qualification
25 again?

1 A. Yes, that's right. I suppose it might be helpful to say
2 that the SSSC has registered many groups over a period
3 of 20 years and this point tends to come up at the
4 beginning when the qualification standard is being set.
5 The concern is expressed that there are many people
6 working in the sector who wouldn't feel either able or
7 willing to undertake a qualification and a concern that
8 they will be driven out by bringing those standards in.
9 We have found throughout the Social Services
10 workforce that is quite a common feedback we get at the
11 initial point of setting a qualification.
12 LADY SMITH: Is that the cohort that is most likely to be
13 put off by the language in the document that's too
14 academic and confusing?
15 A. Yes, I expect so.
16 LADY SMITH: Compounds the problem?
17 A. Yes, I expect so.
18 LADY SMITH: Thank you.
19 MS INNES: Do you know whether there is any evidence that
20 that in fact happens, that people are driven out because
21 a new standard comes in?
22 A. The qualification requirements we set for people on our
23 register, they have a period of time in which to achieve
24 the qualification, and it tends to be that people have
25 five years to achieve it. We have various groups who

1 have come on at different times and we're now reaching
2 a point where there will become over the next few years
3 quite a few groups where that five-year period is being
4 reached and we will be having to have an understanding
5 of whether or not people are achieving the
6 qualifications that were set.

7 So there is, I think, some work for us to do to
8 understand whether we see people leaving the sector as
9 a result of qualifications.

10 But we do have groups that have been on our register
11 for a long time, such as day care of children workers,
12 people who work in nurseries. They have a very high
13 level of qualification. I know these concerns were
14 expressed at the time that they became registered, and
15 it's certainly at this point a number of years after
16 formal registration has concluded and the period for
17 everyone to obtain a qualification has concluded, it
18 hasn't from our perspective caused people to leave.

19 I do appreciate it is possible there may be
20 individuals within the 35,000 on our register that did
21 leave rather than obtain qualifications but so far it
22 hasn't led us to believe that it is causing
23 a significant issue in terms of there being people in
24 the workforce able to achieve that qualification.

25 Q. If we go on to the next page in the summary, page 3, at

1 the top of the page:

2 "On the implementation of the standard, there was
3 almost universal concern regarding three issues from
4 organisations who responded."

5 The three issues are listed there. This is from
6 organisations, it appears, rather than carers?

7 A. Yes.

8 Q. So one:

9 "What would happen to foster carers who failed to
10 meet the standard?"

11 A. Yes.

12 Q. Secondly:

13 "How would the development of the standard link with
14 their organisation's current learning and development
15 processes, systems and materials? Cost implications
16 were mentioned regularly in relation to this."

17 Thirdly:

18 "Who is going to assess the learning of foster
19 carers? A clear view was put forward that this should
20 not be the supervising social work due to, mainly,
21 workload pressures. Again, cost implications were
22 prominent."

23 A. Yes.

24 Q. These issues were raised perhaps more in relation to
25 implementation and delivery?

1 A. That's right.

2 Q. Are these things that the SSSC would have taken into
3 account in the preparation of the final draft or are
4 these broader issues that are really ones for
5 government, for example, to consider?

6 A. I think they're broader issues really for government.
7 If maintaining the commitment for the standard to be
8 something that brings that consistency and fits in with
9 the learning and development frameworks and
10 qualifications across the rest of the sector, the
11 standard achieves that. So I think the issues
12 highlighted here are about delivery and I know the
13 consultation outcome and these responses were reported
14 back to the reference group that had the oversight of
15 the work.

16 Q. If we can look, please, just finally at the standard
17 itself -- I should say, my Lady, I am conscious of the
18 time but I am hoping that this won't take very long.
19 I'm not going to go through the standard in detail?

20 LADY SMITH: How long?

21 MS INNES: I would say ten minutes.

22 LADY SMITH: I think we should have a five minute break or
23 so.

24 We'll have a short break now if that's all right
25 with you --

1 A. Yes, my Lady.

2 LADY SMITH: -- and then resume after that.

3 (3.02 pm)

4 (A short break)

5 (3.12 pm)

6 LADY SMITH: Are you ready for us to carry on, Maree?

7 A. Yes, my Lady.

8 LADY SMITH: Thank you very much.

9 Ms Innes.

10 MS INNES: Thank you, my Lady.

11 Maree, I was just going to take you to the standard,

12 which is at LIT-000000278, and we see that this was

13 published in April 2017.

14 Obviously there's some background material set out

15 within it.

16 If I can take you to page 6, please, if we go down

17 there's a section headed, "Benefits for foster carers",

18 and the standard sets out the benefits for foster carers

19 in undertaking training --

20 A. Yes.

21 Q. -- in accordance with the standard.

22 Then below that at 1.6, I think it also sets out

23 benefits for fostered children and young people?

24 A. Yes.

25 Q. Which would be:

1 "Supporting positive foster care journeys."

2 And:

3 "Upholding relevant guidance."

4 A. Yes.

5 Q. I assume that these are again benefits that might be

6 experienced if this training is being undertaken in

7 accordance with the standard?

8 A. Yes.

9 Q. If I could ask you, please, to look on to page 15,

10 I think this is a section which touches some of the

11 material which were discussing earlier so:

12 "Consistency, standardisation and quality

13 assurance."

14 Under 4.1 it's noted:

15 "Approaches to promoting consistency,

16 standardisation and quality assurance will depend on the

17 method of implementation."

18 Which obviously is a matter for others, as you've

19 said.

20 "However, it is clear that taking steps to confirm

21 that learning provided for foster carers is mapped to

22 the learning described in the standard will help promote

23 consistency, standardisation and quality assurance."

24 A. Yes.

25 Q. Was that part of the aim of the standard?

1 A. Yes, that's right.

2 Q. It also notes:

3 "Also opportunities for collaborative practices

4 between learning programme providers will help promote

5 consistency and standardisation across and within

6 organisations."

7 A. Yes.

8 Q. Although the SSSC weren't delivering it, this was the

9 sort of goal, I suppose, for delivery?

10 A. Yes, that's right.

11 LADY SMITH: I'm sorry if this is a very basic question, but

12 when it's said, "It's clear that taking steps to confirm

13 that learning provided is mapped to the learning

14 described in the standard", what does that mean, "mapped

15 to the learning described in the standard"?

16 A. So training delivery providers can create courses,

17 organisations can create courses and ensure that they

18 look at what they're delivering and that it accords with

19 what is set out in the standard as should be delivered,

20 and once you have that programme that is mapped against

21 the standard, that means that your training and learning

22 can be approved as meeting the standards that we've set

23 out, if you see what I mean.

24 LADY SMITH: Right, so it's about meeting the standards?

25 A. Yes.

1 LADY SMITH: This may be very old-fashioned of me, but in my
2 day, "map" wasn't a verb as it's being used there, and
3 maps themselves can be complicated and confusing. But
4 you're really talking about linking the learning to the
5 outcome being what it should be if you properly
6 understand the standard. Is that right?

7 A. Yes, and if an organisation wants to deliver a formal
8 qualification, then they have to show that they are
9 meeting those standards and that that's approved by SQA,
10 I think, that it does indeed meet that underpinning
11 standard.

12 LADY SMITH: Thank you.

13 MS INNES: If we go on to page 16 to look at the learning
14 areas, I think first of all we see that there are
15 certain stages, so pre-approval or induction,
16 post-approval and then continuous professional
17 development. What's the difference between
18 post-approval and continuous professional development?

19 A. I think for post-approval, that is immediately that
20 somebody has been approved that they are able to be
21 a foster carer, there is that steep learning curve,
22 perhaps, as children are being placed with them, but
23 continuous professional development is about ensuring
24 that those early skills, training, development you've
25 undertaken stays fresh and current as practice tends to

1 evolve, so the continuous professional development is to
2 ensure that people don't get stale in terms of the way
3 they're looking at their practice.

4 Q. Just below the table it says:

5 "Each standard is relevant for all of the above
6 stages ..."

7 But are there different or additional bullet points,
8 I think, when we come to the standard itself, that need
9 to be addressed at different stages?

10 A. Yes, I think that's right.

11 Q. If we just look to the bottom of the page, there's
12 a heading:

13 "What does it mean to meet the standard?"

14 There it says:

15 "To meet the standard, foster carers need to show
16 that they are working in ways that are in line with all
17 parts of the standard for their current learning stage."

18 That seems to be more about practice rather than
19 attending courses.

20 A. Yes, and I think we would certainly say that your
21 development and learning isn't just about attending
22 courses, it is something continuous that you should be
23 developing at all times and reflecting on and thinking
24 about how you should improve.

25 Q. When we were talking earlier about assessment and

1 an issue being raised about the supervising social
2 worker undertaking that assessment, would the social
3 worker be assessing somebody is doing the job,
4 essentially?

5 A. Yes, that's right. The SVQs that are our standard
6 qualifications that this standard maps into, then that's
7 something that is about assessment of practice, so
8 an assessor has to come in and observe you and that
9 forms part of deciding whether you have indeed achieved
10 that SVQ.

11 LADY SMITH: So when it says "foster carers need to show",
12 are you telling me that they will need to show that to
13 an assessor?

14 A. If they are looking for the framework to deliver
15 a formal qualification --

16 LADY SMITH: Yes.

17 A. -- it would be an assessed qualification and the
18 assessment would be observing practice, so observing the
19 foster carer's fostering.

20 LADY SMITH: Thank you.

21 MS INNES: If we can look at the list of standards, please,
22 on page 18, I think we see here a list with standard
23 numbers and learning area titles. If we scroll down,
24 there are 19 of them covering different areas. How were
25 the areas selected, do you know?

1 A. My understanding is that it came out of the research,
2 but also the National Occupational Standards already
3 have within them key areas around these areas where
4 anyone working in the sector has the -- the
5 qualifications will cover these areas for people working
6 in the sector. Not all of them are mandatory.

7 I think the priority of what should be included came
8 from the research, but then the areas are already part
9 of that suite of work that is contained within the
10 National Occupational Standards.

11 Q. Then if we can look at one of the standards, so if we go
12 to page 29, this is standard 5, "Keeping children and
13 young people and others safe". Then it says:

14 "Foster carers' understanding of how to contribute
15 to keeping children, young people and others safe (see
16 also learning area 14: Social media and online
17 technologies). Opportunities for holistic learning and
18 evidence gathering should be considered."

19 What does that mean? That last sentence about
20 opportunities for holistic learning and evidence
21 gathering should be considered?

22 A. I don't think I can comment on what was meant by the
23 phrase "holistic learning". I can certainly provide to
24 you somebody more experienced, if the Inquiry so wishes.

25 The evidence gathering it would be normal as part of

1 carrying out a piece of training or learning that you
2 would gather evidence of what you had carried out and
3 then write it down or in some way transfer that evidence
4 that you had gathered and your reflection on it to
5 somebody that was maybe assessing you. So it would be
6 quite normal that we would be expecting people to be
7 noting down -- you'd normally be writing down what it is
8 that you had done that showed that you understood and
9 were able to put into practice these principles.

10 Q. Then we see a heading, "Descriptors for all foster
11 carers":

12 "All foster carers should have an understanding of
13 the following."

14 Then there's various paragraphs. Can you explain
15 what this is about?

16 A. I think this is setting out the key areas that foster
17 carers who were working towards that standard would need
18 to demonstrate that they understood and had the skill
19 and experience to put into practice.

20 In the first example, we're talking about ways
21 foster carers can contribute to keeping children and
22 young people safe. I think somebody carrying out -- as
23 a foster carer -- training and learning there, would
24 then need to show to anyone who was assessing that:

25 "This is either the reading I've undertaken or the

1 module online perhaps I've read. This is my reflection
2 on it in relation to perhaps children that I am
3 fostering at the moment and why it is so important and
4 how I contribute to that."

5 So there's the evidencing that you understand it in
6 that you've read something or participated in something
7 and then that you can also show that you can put that
8 into practice.

9 Q. For example, some of them are quite concrete. For
10 example, number 5:

11 "Who to contact, and the processes to follow, when
12 there are concerns about risks, harm and safety, and
13 what it means to share information appropriately in
14 these circumstances."

15 The first element of that, who to contact, that
16 might be assessed by just checking that they do know who
17 to contact.

18 A. Yes.

19 Q. But what it means to share information appropriately in
20 these circumstances is something more nuanced,
21 I suppose.

22 A. Yes. I suppose the training and learning provider would
23 perhaps be expecting here there to be sort of examples
24 of situations where you need to be cautious and balance
25 different priorities about sharing information, where

1 you may have safety concerns but you're also considering
2 privacy concerns. So I expect that to be something that
3 if you were undertaking training and learning and that
4 standard is one of the things that training and learning
5 is meant to meet, that training and learning should have
6 within it something that explains some of the challenges
7 around sharing information appropriately and almost
8 brings it to life for the foster carer to understand.

9 Q. This section that we're looking at is descriptors for
10 all foster carers, but if we scroll down a little
11 I think we see a heading:
12 "Descriptors for foster carers at the post-approval
13 and CPD stages."
14 There seem to be some additional points there,
15 I think.

16 A. Yes.

17 Q. At 9, for example we see:
18 "Put the above ways to practice and understanding
19 into action."
20 A. Yes.

21 Q. If you were assessing that, would that go back to the
22 sort of observation of the foster carer in real life
23 that you mentioned earlier?

24 A. Yes, that's right, and also the foster carer being able
25 to reflect on situations they had maybe encountered and

1 how they'd responded to them and show that they either
2 were putting into practice things that they had been
3 trained on or reflecting that maybe they hadn't done so
4 well on it and how they would do it in the future.

5 Q. Okay. I hope that gives an example of the standard.

6 In terms of then how it was implemented, I think
7 you've touched on this in your evidence already, you
8 produced the standard and it was over to others to
9 implement?

10 A. Yes. Having produced the standard, although I couldn't
11 locate a formal document from Scottish Government
12 requesting that we go ahead and publish, we absolutely
13 wouldn't have published it unless we'd had the go ahead
14 from Scottish Government to do so.

15 So we published it in 2017 and my understanding is
16 we haven't had a request to do any further work around
17 reviewing it or implementing it.

18 MS INNES: Thank you. I don't have any more questions for
19 you, thank you, Maree.

20 LADY SMITH: Thank you very much. I don't have any more
21 questions either.

22 I just want to thank you very much for the further
23 assistance you have given us, Maree, and for the work
24 that you've put into both the standards and the written
25 piece that you've produced today that now sits neatly

1 alongside your boarding school report.

2 Thank you very much for that and I'm able to let you

3 go.

4 A. Thank you, my Lady.

5 (The witness withdrew)

6 LADY SMITH: Ms Innes?

7 MS INNES: That concludes the evidence for today.

8 Tomorrow we'll hear evidence from Susanne Millar,

9 who is chief social work officer at Glasgow, and

10 Wendy McKitterick, who is a team leader at Stirling

11 Council.

12 LADY SMITH: Thank you very much indeed.

13 I'll rise now until tomorrow morning. We will start

14 again at 10 o'clock.

15 Thank you, all.

16 (3.32 pm)

17 (The Inquiry adjourned until 10.00 am on

18 Wednesday, 11 May 2022)

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