

Friday, 13 May 2022

1

2 (10.00 am)

3 LADY SMITH: Good morning. This morning we move to
4 a council rather further north from here. It's
5 Highland, isn't it, Ms Innes?

6 MS INNES: It is, my Lady. Fiona Duncan, who is the Chief
7 Social Worker Officer there, is here to give evidence.

8 LADY SMITH: Thank you.

9 Ms Fiona Duncan (affirmed)

10 LADY SMITH: How would you like me to address you? By your
11 second name, Ms Duncan, or --

12 A. Fiona is fine.

13 LADY SMITH: Thank you for that.

14 You'll see you have a hard copy of the written
15 response Highland Council sent to us that I think you're
16 going to be asked about this morning, both hard copy and
17 it will come up on screen at different parts that we'll
18 be looking at and you may see some other documents
19 coming up on screen as well.

20 Do let me know if you have any difficulties with any
21 of the systems or if you have any other questions.

22 We will take a break at around 11.30 normally, but
23 if you need a break at any other time, please let me
24 know.

25 A. Will do, thank you.

1 LADY SMITH: Because it's important that I can do what I can
2 to make it easier for you to get through giving your
3 evidence, which I know can feel daunting at the
4 beginning, but we'll do our best to help you with it.

5 A. (Witness nodded)

6 LADY SMITH: If you're ready, I'll hand over to Ms Innes and
7 she'll take it from there. Is that all right?

8 A. Thank you.

9 LADY SMITH: Ms Innes.

10 Questions from Ms Innes

11 MS INNES: Thank you, my Lady.

12 Fiona, you've provided the Inquiry with a copy of
13 your CV, and we understand that your current position is
14 as Executive Chief Officer Health and Social Care with
15 Highland Council and you also hold the role of Chief
16 Social Work Officer?

17 A. That's correct.

18 Q. We can see that you embarked on a career as a social
19 worker in 1997; is that correct?

20 A. That's correct.

21 Q. Your experience, I think, is primarily in the area of
22 criminal justice social work?

23 A. The first 15 years or so, yes.

24 Q. You worked, I think, with Clackmannanshire, City of
25 Edinburgh and East Lothian, and you obviously moved into

1 a management role, I think, first of all with City of
2 Edinburgh and then East Lothian, ultimately becoming
3 a Chief Social Work Officer at East Lothian in 2016?
4 A. That's correct.
5 Q. Then, from there you moved to Clackmannanshire in 2019,
6 where again you were Chief Social Work Officer, and your
7 role within the organisation was Senior Manager of
8 Children and Justice Services at that point?
9 A. That's correct.
10 Q. Then you moved to Highland Council on 11 January 2021?
11 A. That's right.
12 Q. At the time that Highland Council prepared its response
13 to the notice which was sent out by the Inquiry in
14 respect of foster care, you were at Clackmannanshire,
15 I think?
16 A. I was.
17 Q. I think you were in fact involved in the preparation of
18 Clackmannanshire's response to the Inquiry notice?
19 A. That's right.
20 Q. So you're familiar with the process and the --
21 A. I am, yes.
22 Q. Yes. Obviously you're here now in your role as Chief
23 Social Work Officer for Highland Council and in that
24 role you take responsibility, I think, for this notice
25 and the Council's response.

1 A. I do.

2 Q. Thank you.

3 Can I ask you, first of all, to look at Part A of
4 the Council's response, which is at HIC-000000051. If
5 we can look on to page 3, we see the history of the
6 Local Authority there. Just looking at the predecessors
7 of Highland Council, I think for the period 1930 to 1975
8 we see that there were a number of county councils and
9 burgh councils. At that time, some of the county
10 councils also included the Western Isles, I think?

11 A. That's correct.

12 Q. But excluding the Western Isles, I think the other
13 county councils and burgh councils became Highland
14 Regional Council in 1975?

15 A. That's right.

16 Q. Then obviously from 1996 to date it has been Highland
17 Council, I think, with the same boundaries as the
18 Highland Regional Council had?

19 A. Yes.

20 Q. If we look on to page 4, please, there's a question
21 there at (c) as to how the involvement of the Local
22 Authority in the provision of foster care has changed or
23 developed over time. It says there:

24 "Most changes or developments have taken place due
25 to legislation changes in Scotland. This is directly

1 referenced in several meetings of the social work
2 department of the role changes due to the introduction
3 of new legislation."

4 I'm going to take you forward in this document
5 a little bit to look at a chronology of significant
6 events.

7 A. Okay.

8 Q. How do you understand the council to have approached
9 preparing its answer to these sorts of questions about
10 historical periods?

11 A. They made the decision to get a core group together
12 and -- including archivists, et cetera, and they then
13 divvied up the work as to who was doing what. So some
14 were tasked with archive documents to go and pull that
15 together.

16 Q. Okay. And not talking about any case file review at the
17 moment, but in terms of minutes and archives and
18 suchlike, are you aware if there were any challenges
19 that the Council faced in drawing together the relevant
20 material?

21 A. There were file wise, in that there were some spread
22 across the whole of Highlands, they weren't all kept
23 number a centralised place and that came to the fore as
24 this was looked into. So the majority of things were in
25 the archive in terms of files, but not all. So that did

1 prove a wee bit problematic.

2 Q. Can I ask you, please, to look on to page 63. Here we
3 have a section, "Structure, leadership and
4 accountability", and:

5 "Past.

6 "What was the structure of the responsibility within
7 the Local Authority in relation to foster care?"

8 For the period 1930 to 1948 it's said:

9 "The inspector of poor or director of social welfare
10 would have overseen the public assistance/social welfare
11 departments respectively and was charged with making all
12 major decisions ... no staff records exist for this
13 period but would almost certainly have been in single
14 figures, including administrative staff."

15 Do you know if the Council were able to find any
16 records for this early period?

17 A. Nothing's come to the fore.

18 Q. Okay.

19 Then the next period is 1948 to 1968 and it says
20 there that at that point the children's officer would
21 have had oversight of the Children's Department and it
22 notes that no staff records exist at that point.

23 Again, for that period, was the Council able to
24 identify any relevant material, so up to 1968?

25 A. Not for staff records.

1 Q. Okay. Were they able to find any minutes of meetings or
2 anything else in the archive?

3 A. I think the only additional stuff would have been
4 mentioned in the addendum. If anything else -- that
5 they then went back to look to see if there was anything
6 else.

7 Q. Okay. If we move on to the early -- well, there's the
8 1970s before regionalisation, there's reference to
9 a children's officer, and then in the early 1980s it
10 says:

11 "Fostering and adoption was managed by the area
12 teams who had responsibility for all social work
13 services, organised by geographical area, teams were
14 generic, therefore fostering and adoption was not
15 a specialist area of work."

16 Then it gives a little bit more detail about that.
17 Is that an approach you're familiar with in terms of the
18 organisation of a Local Authority in the past having had
19 generic teams rather than specialist teams?

20 A. Yes. In the past it was very much so. I think most
21 areas were generic, and then as we moved through into
22 the 1990s and further on, things have become more
23 specialised.

24 Q. Would a generic team have covered the whole range of
25 social work work, so criminal justice, adults and

1 children and families, for example?

2 A. Yes.

3 Q. Then if we scroll down a little, we see that in the
4 mid-1980s it was decided to have fostering as
5 a specialist area of work.

6 A. That's correct.

7 Q. They set up a team in Inverness that were two social
8 workers and a senior social worker managed by a senior
9 manager. Adoption remained with the area teams. So
10 here it appears that Highland had fostering as
11 a specialist area of work but kept adoption in the
12 generic teams?

13 A. Yes.

14 Q. We know from other Local Authorities that sometimes they
15 have adoption and fostering together.

16 A. Yes.

17 Q. Are you aware of there being any specific reason for
18 Highland having done this?

19 A. I'm not, actually. I'm not really sure with that one,
20 sorry.

21 Q. Is it your experience that in the Local Authorities that
22 you've worked with, so most recently East Lothian and
23 Clackmannanshire, that it's a combined adoption and
24 fostering service or that there's a specialist fostering
25 service?

1 A. In my experience they've always been combined, they've
2 always been together.

3 Q. What's the current position in Highland Council?

4 A. They're together.

5 Q. If we look on from there, there's reference to:
6 "Around 1987 children's resources had adoption added
7 to their responsibility."
8 That seems to have been when they merged?

9 A. Mm.

10 Q. Then there's reference to other types of care, respite
11 care, childminding, playgroups and nurseries were also
12 part of the team's responsibilities at that time.

13 A. Mm.

14 Q. Again, is that something that's familiar to you? Would
15 an adoption and fostering team normally deal with these
16 other areas? Or not?

17 A. No. Today they would with respite and other parts of
18 fostering/adoption have been more emphasised, for
19 example kinship, et cetera is all under that remit now,
20 but nurseries not. Nurseries actually sits with our
21 education department.

22 Q. If we look over to the next page, please, there's
23 reference to changes in staffing at the top of the page,
24 and then it notes in 1986 to 1990, social work teams
25 were generic, including criminal justice services, who

1 separated from the rest of social work services first
2 around 1990.

3 A. Yes.

4 Q. What the response seems to be saying is that there was
5 this specialist team but then it also refers to the
6 existence of generic teams. Do you understand what's
7 being referred to here?

8 A. Obviously with some legislation and guidance that were
9 coming in, specialist might be too strong a word, but
10 there was more emphasis on the need for teams to be more
11 specific in the work that we're doing, more focused in
12 that work. Justice was certainly one of them.

13 I would also probably suggest that at that time
14 child protection was very much to the fore as well, so
15 they were probably key areas of focus.

16 Q. In the generic team?

17 A. Yes.

18 Q. Okay. Then there's reference in 1992 to the fostering
19 service being reorganised into two teams, north and
20 south --

21 A. Yes.

22 Q. -- and it says where the teams were based, as it were.
23 So that happened at that stage. Is that still the way
24 that the adoption and fostering service is operated in
25 Highland?

1 A. No, they -- we now have a manager that manages the
2 service, and the area -- the services -- although we
3 have a core and larger team within Inverness, that's
4 because there is a volume of work there, there are
5 workers in different offices across the Highlands who do
6 deal with fostering and adoption.

7 Q. Okay, and the workers that are based across the
8 Highlands, are they specialists in adoption and
9 fostering or --

10 A. Yes.

11 Q. -- are they doing other work as well as that?

12 A. No, it's a fostering and adoption service.

13 Q. Okay. If we look down again in -- there's reference to
14 the period 1993 to 1996, there were locality teams with
15 children and families workers, fostering workers, OT and
16 community care workers in one team. So that sounds like
17 a local team in a local area in which there would be
18 a number of specialists.

19 A. Yes, yes.

20 Q. Is that still the way in which a local team would
21 operate in Highland?

22 A. Not quite. We have local areas and one of the reasons
23 for that was within Highland is with geography, we have
24 very different demographics across the area, one size
25 does not fit all, so we have to adapt. So you have area

1 teams, but the remit of the area teams may differ
2 between the areas. However, as I said before, it is
3 within fostering and adoption, that is a sort of
4 standalone service. So it might sit -- there might be
5 workers within the area team and they link in with all
6 the other workers, but they are managed through the
7 fostering and adoption manager.

8 Q. Are you able to tell us where the area teams are?

9 A. We're currently looking at the list now, but we have the
10 four areas. So we have Inverness, we have Caithness,
11 Fort William in the west and then we have a sort of
12 north -- a central team as well, so there's four central
13 teams -- four teams, sorry.

14 Q. If we look down again to the bottom of this page to
15 1998, there's an indication that a number of new posts
16 of senior social worker were required to line manage and
17 co-ordinate the work of children's resources, social
18 workers and support workers to have managerial overview
19 of children's services within their locality, taking
20 responsibility for the reviewing of looked-after
21 children and to contribute to the development of area
22 strategic service plans for children. The teams became
23 bigger and separated into children and families, adult
24 care and adoption and fostering. Again, there's
25 reference to different teams in different areas at that

1 time.

2 A. Yes.

3 Q. It notes at the end that Ross-shire decided to have
4 a team around then also and that team was managed by
5 a service manager for fostering and adoption, who was
6 accountable to the local area manager.

7 A. Yes.

8 Q. If we again move down, we see reference to 1999 and it
9 refers there to a very critical external review and
10 a temporary director of social work being put in place.

11 A. That's correct.

12 Q. Do you know who carried out the external review?

13 A. Sorry, I don't, no.

14 Q. Have the Council looked for reports relevant to this
15 time frame?

16 A. Well, obviously we had the Barnardo's report, so we have
17 that one, and that then was a trigger for many things
18 after that internally and reports to some committees,
19 et cetera.

20 LADY SMITH: When was the Barnardo's report? Can you remind
21 me?

22 A. In 1999.

23 LADY SMITH: That was also in 1999?

24 A. Yes.

25 LADY SMITH: Thank you.

1 MS INNES: We'll look at the Barnardo's report now, it's at
2 HIC-000000061. Here we see a report by the director of
3 social work for the social work committee, 4 November
4 1999. There's reference to Barnardo's (Scotland)
5 Evaluation Study. This is the Barnardo's document that
6 you referred to?

7 A. Yes.

8 Q. If we can look at a few matters in this, please.

9 First of all, under, "Background" at 2.1 we see
10 there I think:

11 "The study was commissioned to evaluate the gaps in
12 children's services, the feasibility of Barnardo's
13 (Scotland) providing services in Highland and the
14 partnership arrangements which could be agreed between
15 the Council and Barnardo's Scotland."

16 At that point it notes:

17 "The social work committee of 9 August 1999 gave
18 agreement for the study to be undertaken."

19 A. That's correct.

20 Q. If we can go on, please, to page 3, I think we see the
21 front page of the report. Again, if we can move on to
22 page 6, where there's an executive summary and it notes:

23 "This study was commissioned to evaluate the
24 feasibility of Barnardo's providing childcare services
25 in the Highland Council area."

1 2:

2 "The study was asked to identify what childcare
3 services were needed and what would make a real
4 difference to children being looked after or in need."

5 A. That's correct.

6 Q. If we look down to number 5 there's a list of areas of
7 need which had been identified: community support
8 services, services with a specific remit to prevent
9 young people being accommodated, services for
10 looked-after children. I think that would encompass
11 fostering, would it?

12 A. It would, yes.

13 Q. And through-care and after-care services.

14 Again if we can look on in the report, please, at
15 page 9, if we look at the literature review, the author
16 of the report notes that access was given to a full
17 range of reports and I think that there are some
18 documents there, so for example an overview of Highland
19 Council Childcare Services -- Towards the Development of
20 an Integrated Childcare Strategy, and I don't think the
21 council have been able to find that document?

22 A. No, they haven't.

23 Q. Again, if we look down to 2.2.2, the author notes:

24 "The following were unavailable at the time of this
25 study being undertaken although I understand that they

1 are likely to be available in the very near future."

2 There's reference to updated policy and procedures
3 at that time.

4 A. That's right.

5 Q. Secondly:

6 "Work is currently being undertaken by the Highland
7 Council to develop a robust children and families
8 information system. This means that I have not been
9 able to support the recommendations for service
10 development with sound statistical data."

11 A. That's correct.

12 Q. Do you know anything more about that issue than what's
13 written here in the report?

14 A. I don't, sorry.

15 Q. Then there's reference to a review of fostering services
16 currently being undertaken within the same time frame as
17 this report, and have the Council been able to find that
18 review?

19 A. No, they haven't. From that we have memory recall in
20 relation to that.

21 Q. Okay. So have the Local Authority spoken to people who
22 were working within the service at that time?

23 A. Yes. There's not many, but we have spoken to some, yes.

24 Q. What have they been able to tell you about what happened
25 at this point?

1 A. They very much regard this as the fostering and adoption
2 really needed to be modernised and this went hand and
3 hand with this quite significant piece of work that was
4 not going to be resolved overnight, but it was very much
5 part of a forward plan and was aimed at really improving
6 the service so that the service to children and young
7 people were appropriate.

8 So it was seen as a really significant thing. And
9 required, there was nobody that said it wasn't required.

10 Q. I think we see that the author notes the context of the
11 report at the bottom of this page, so it's at the time
12 of considerable activity in Highland Council and in the
13 external environment. Then, next page:

14 "There has been a plethora of government initiatives
15 all with extremely tight response deadlines."

16 Page 10, the second paragraph there, it's noted that
17 that had stretched the resources of all Local Authority
18 planning departments. I assume that means strategic
19 planning?

20 A. Yes, it does.

21 Q. Then there's some reference to service development
22 proposals that were being put in place.

23 If we can look down to 3.1.5, please, do we see it's
24 noted there:

25 "A key concern that has informed the recommendations

1 in this report is the need to develop services within
2 Highland Council that will, both in the immediate and
3 longer term, reduce the numbers of children and young
4 people placed outwith their area and/or outwith the
5 authority."

6 So that would suggest that at that point that was
7 an issue?

8 A. Yes. I think it's about making sure that we had
9 an appropriate number of foster carers and adoptive
10 carers that could take on that role, rather than young
11 children or young people having to go outwith.

12 Q. It's noted in 3.1.6:

13 "In undertaking this study it was not clear the
14 extent to which all council services shared a common
15 vision of how children's services should be developed."

16 Then there's reference in the next paragraph to the
17 need to have:

18 "... an overall vision statement, which emphasises
19 a corporate approach ... which can then be built into
20 a strategic plan."

21 A. That's correct.

22 Q. Is that something that is still an issue, that
23 an organisation like the Local Authority would look at?
24 Would you still have a vision statement and a strategic
25 plan?

1 A. Yes, we do. I think it's key, because we have children
2 and families that come to the attention of social work
3 for a variety of different needs and at different
4 stages, and for that reason the service needs to be, as
5 a whole, and understand what the vision is and what
6 we're trying to achieve and that children and young
7 people have a voice within that, so that is all
8 encompassing and I think it's really, really important.

9 Q. Thank you.

10 If we can go on, please, to page 16, where we have
11 a section dealing with fostering. At 6.1.1 we see it
12 says:

13 "The need for modernisation and expansion of the
14 current foster care provision was one that was almost
15 unanimously highlighted as the key to substantially
16 improving the capacity of Highland to effectively meet
17 the needs of its looked-after children and young people.
18 There are no easy or straightforward solutions to
19 increasing the quality and range of foster placements
20 available."

21 From what you've said, does that accord with the
22 memory of people who were working in the organisation at
23 that point?

24 A. Yes. Very much so.

25 Q. Then there's reference at 6.1.2 to Kate Birch, acting

1 assistant area social work manager, having been asked to
2 specifically review the fostering service.

3 A. That's correct.

4 Q. It looks like she was the person who undertook the
5 review at the time.

6 A. Yes. She had a really thorough look at everything that
7 was going on, and what we probably today would class as,
8 you know, not up for debate, for example making sure the
9 reviews were done timeously, people were involved in the
10 process, et cetera, et cetera, she pulled all of that
11 together and basically put down that this was not up for
12 debate, they had to be done because they were part --
13 core to the service.

14 Q. From what you said, would I be right in thinking that
15 reviews therefore weren't being done on time, that there
16 were issues with those sorts of things?

17 A. They were and they weren't, and I think that was the
18 issue. There was a part where the -- what reviews were
19 for and why they needed to take place annually were
20 required, or more than that, if needed. So I think
21 there was a real emphasis on the importance of them, and
22 not just in terms of protection but also to see if the
23 needs of the child and the family were actually being
24 achieved.

25 Q. When you're talking about reviews there, are you talking

1 about reviews of the foster carers as opposed to reviews
2 of the children? Or both?

3 A. Both.

4 Q. If we then go down to paragraph 6.2, "The foster care
5 service", at 6.2.1 the author says there:

6 "There is a crisis in the foster care provision --
7 although the past lack of reliable statistical
8 information makes this difficult to quantify."

9 I think she might be referring back there to what
10 she said earlier about difficulties in obtaining data.

11 A. Yes.

12 Q. Then at 6.2.2 she refers to a report by
13 John Triseliotis.

14 A. Yes.

15 Q. Do you know what that report's about? Have you been
16 able to find that?

17 A. I've not found that report, no, sorry.

18 Q. He says that there were 201 foster carers in 1997, and
19 at that point:

20 "Recruitment in this agency was one of the highest
21 found, accounting for one fostering household for every
22 404 households, compared to an average of one per 1,000
23 found in the national sample."

24 It looks as though he was doing some comparative
25 work.

1 A. Yes.

2 Q. Then at 6.2.3 do we see that it says:

3 "A report to the social work committee in March 1999
4 states the number of foster carers as 157."

5 So a reduction.

6 A. In two years, that's quite significant. So either the
7 first figure was wrong or -- because we always have
8 turnover, but not usually in that size of numbers.

9 Q. Then at 6.2.4 we see:

10 "Whatever the reality of the above, there are
11 currently few available foster care resources in the
12 Highlands."

13 Does that accord with the information that you've
14 received from people who were working in the service at
15 that time?

16 A. I think it was more the different types that was
17 available. So, for example, having availability of
18 respite foster carers or short term tended to be
19 lacking, so there was a mixture within that.

20 Q. Then at 6.2.5 it was said:

21 "This situation is likely to worsen in the near
22 future with the age profile of the current carers.
23 A substantial number are nearing retirement age and
24 likely to cease fostering within the next few years."

25 What would you understand retirement age for

1 a foster carer to be?

2 A. Well, there's not, I think, very simply, but we do
3 have -- even now we do have an ageing age within the
4 foster care bracket, so that is something that we have
5 to look at, because a number of foster carers are saying
6 that they will retire, for want of a better word, or
7 looking at that, yes.

8 LADY SMITH: Do you have a feel for what sort of age that
9 tends to be?

10 A. What we try and do, rather than go on age, we try and
11 work with the foster carer in terms of their physical
12 being and their mental being and also what's going on,
13 so for -- and then we'll try and match ... if they still
14 have the skills and the desire to be a foster carer and
15 can really carry that through, we'll try and keep them
16 as long as possible.

17 LADY SMITH: Thank you.

18 MS INNES: Paragraph 6.2.6, do we see it says:

19 "It is likely that carers will be lost from the
20 service quicker than they can be recruited unless a more
21 radical strategy is adopted."

22 That seems to be that something radical needed to be
23 done?

24 A. It did in terms of the service, but I would just say in
25 terms of carers leaving, it does -- again it's in

1 relation to age and retirement word rather than any
2 other reason, and that's quite consistent.

3 Q. Then at 6.2.7 we see reference there:

4 "There is no choice of suitable placement at the
5 point of children being accommodated. This often leads
6 to what everyone would acknowledge as an inappropriate
7 placement being made with a very substantially increased
8 risk of disruption. Frequent early moves when children
9 are first accommodated can lead to children escalating
10 up the tariff system and being propelled into
11 out-of-council placements. There is a perception that
12 placements often disrupt."

13 Can you explain a little bit about that?

14 A. There was probably a lack of what we'd probably call
15 specialist placements, where some children may have
16 required more specific input from foster carers and the
17 foster carers didn't have those skills or we hadn't been
18 able to access training for them to be skilled up in
19 that area. So what that really did was drew attention
20 to the fact that foster carers' role covers really
21 a multitude of issues and skills required and therefore
22 we have to look at that on a much broader basis, and
23 I think that's very much saying that.

24 Q. I think that point that you have just mentioned is
25 picked up at 6.2.10, where it refers to the increasing

1 complexly of children and young people's needs and that
2 impacting on the availability of resources. They often
3 need to be placed as a "singleton placement". Would
4 that be on their own with carers? Is that what is
5 meant?

6 A. Yes, so a singleton placement is one child with
7 a family, whereas we sometimes know that you might have
8 family groups, so that would also be looking at could we
9 keep the families together. Also now we will have
10 foster carers who would have more than one child, not
11 necessarily in the same family group as well.

12 Q. Can we just go up a little bit again, sorry, to 6.2.8,
13 where it says:

14 "Confidentiality is an issue. Looked-after children
15 tend to be very visible in the Highlands and
16 difficulties resulting in breakdown in one placement can
17 lead to the young person being rejected by other
18 carers."

19 Is that an issue that remains in Highland, would you
20 say?

21 A. In some of the areas where we have very low population,
22 people know. People know who's there, et cetera. So
23 that's something that we will continue to work with and
24 try and address.

25 LADY SMITH: I suppose some of the communities you're

1 working with can be numbered in hundreds rather than
2 thousands?

3 A. Or less than hundreds.

4 LADY SMITH: Very common in the Highlands -- or less, yes.

5 A. Yes, yes.

6 MS INNES: I assume that one of your aims would be to keep
7 children close to their family home or within the area
8 where they would go to school?

9 A. If that's appropriate. On occasions that's not
10 appropriate, so -- but, yes, we would certainly try and
11 keep them there.

12 Q. Then at 6.2.9, for completeness, again it notes:

13 "One of the critical needs is for short-term and
14 emergency placements."

15 You've mentioned that in your evidence already.

16 Then it says:

17 "Another is to provide continuity and stability of
18 care."

19 Do you know what that was about?

20 A. Again I think part of this is -- well, twofold.

21 One is that foster carers had the appropriate
22 training and skills to do things.

23 And by that leads us into the second part, which is
24 if the young person's behaviour was quite traumatised,
25 they could then deal with that rather than go, "We can't

1 cope with this young child any more", which occasionally
2 happened. And, again, that was to the distress of the
3 child.

4 Q. We see I think at paragraph 6.2.11 this issue about
5 skill base, so:

6 "There is a need for an improvement in the general
7 skill base of carers. In many areas there is a real
8 difficulty in achieving carers' attendance at training.
9 The reasons for this are not altogether clear."

10 Has that been an ongoing issue or not?

11 A. No. That very much during the last however long,
12 20 years or so, the emphasis on training, different
13 types of training, and, you know, in relation to the
14 child as well, has been key. So the attendance at
15 training in whatever form, whether it be virtual or in
16 person, is actually non-negotiable.

17 LADY SMITH: How has that been achieved?

18 A. It's monitored. If we're talking now, we have -- as
19 every carer has to have mandatory training. That is
20 stated and that's agreed. If they then have -- or they
21 are looking to work with certain children or have
22 certain children in their care, they might need
23 additional training on top of that. If they don't go to
24 training, and that is identified via the social worker
25 or the child themselves, that will be discussed. It

1 goes into the managers, it will come to a review. It
2 will potentially go to the fostering panel or the agency
3 decision maker. Ultimately, the extreme is if the
4 foster care does not comply with training or does not do
5 training and we think that it's to the detriment, then
6 they will cease being a foster carer.

7 LADY SMITH: Thank you.

8 MS INNES: The next paragraph here we see, 6.2.12, it says:

9 "The view was expressed that in some areas foster
10 carers hold unrealistic expectations of the young
11 people's behaviour."

12 Do you know what that was about?

13 A. I think -- again perhaps this is part of foster carers,
14 in terms of their training, is not being fully brought
15 up to speed of the range and needs of the young people
16 that might come into their care and the need for
17 a matching process, so to speak. Some of the young
18 people that we have that need to go to foster carers
19 have been traumatised, and their behaviour will present
20 as such. So the foster carers have to work with that,
21 manage that accordingly.

22 Q. Then under paragraph 6.3 we see a heading, "Analysis of
23 shortage of provision", and there's reference in the
24 first paragraph to:

25 " ... very significant staff shortages in many of

1 the resource teams for a considerable period of time.
2 Many of these vacancies are now in the process of being
3 filled. The fostering service has been limited by this
4 past lack of staff."

5 Is getting staff to work in the fostering service in
6 Highland a challenge or not?

7 A. Again, this might be twofold. If we go back to the
8 1990s/early 2000s, there would be -- child protection
9 would have been a priority if things had happened and
10 sometimes staff were taken from other services to work
11 in child protection, so that was one.

12 If we go right up to date, geography is an issue for
13 all services within Highland, so that's something that
14 we have to actively work on. How do we encourage people
15 to go to certain areas, et cetera?

16 Q. Because with the area teams, presumably the social
17 worker would really have to be living in that area or
18 very close to it?

19 A. Yes. Virtual working over the last couple of years has
20 brought a different dimension, and also not having to be
21 in an office five days a week. So they've all added
22 something, actually. So there's probably now more
23 flexibility built into the system, which we're more than
24 willing to talk to workers about to see if we can
25 encourage flexibility with them but also more mobility

1 across the area.

2 Q. If we just scroll down a little, there's reference to
3 difficulties in recruitment. At paragraph 6.3.4:

4 "This has however not translated into an ability to
5 recruit carers by word of mouth as would normally be
6 expected."

7 Is it your experience that that's how foster carers
8 are recruited, through word of mouth?

9 A. It's important, because whilst I think all areas have
10 their own websites and do the promotions and advertise,
11 et cetera, nothing beats foster carers actually
12 describing and explaining the role that they do and what
13 they get from it, and that's huge. You can never
14 underestimate the impact that can have.

15 Q. And how do you recruit nowadays in Highland?

16 A. We have an active campaign. Obviously it's Foster Carer
17 Week as we speak, so that's there. We have the
18 websites. But we also, we constantly think: are there
19 other ways of doing it? We're thinking at the moment
20 about going out in a more mobile way and trying to see
21 if people will come to us just for a questions and
22 answers.

23 So what we're trying to do though is make it easier
24 for people to access information, but then access
25 a person to then have a conversation as to what does

1 that mean in practice and would they be possibly
2 suitable, without having to go through, "Here's a form,
3 fill this really long form in", so it's to make it much
4 more personable.

5 Q. In that process, would you use some of your experienced
6 carers, you mentioned some that might be retiring soon?

7 A. Yes. I know that we do when we have meetings, we use
8 some of our children as well, some of our older
9 children, because they're key to that.

10 Q. If we look at 6.3.5, it's noted, and I think the next
11 paragraph, that:

12 "Highland had considerable part-time and full time
13 employment opportunities for women outside the home."

14 And some of these work opportunities might be
15 seasonally related, but they nevertheless restrict
16 availability for fostering.

17 A. Yes.

18 Q. Is that an issue that remains or not?

19 A. I think it's the nature of the Highlands is we have
20 tourism is one of our major industries. It is seasonal
21 work, so it is something that we're very conscious of.
22 But, again, I would like to think now that how we think
23 about things have moved on, because this is again,
24 scarily, 20 years ago, so I would like to think that we
25 would look at that in a much more positive way and

1 people working -- people work. You know, it's part of
2 family life. So I wouldn't like to think that was a bad
3 area any more.

4 Q. If we can go on to the next page, please, this says,
5 "Impact of modernisation of the service", and it says:

6 "All of the above points to a need to radically
7 modernise the fostering service."

8 I think that reflects --

9 A. Yes.

10 Q. -- what people have told you about what was happening at
11 the time.

12 A. Yes.

13 Q. "That was clearly acknowledged by management and
14 proposals were being presented to the social work
15 committee, which will propose a fee-based structure for
16 payment to carers."

17 Then if we can look to 6.4.4, again I think talking
18 about the introduction of a fee-based structure, it
19 says:

20 "The experience of other authorities who have
21 adopted this system has been that it has increased
22 attendance at training, improved the skill base of their
23 carers and led to improved retention rates of carers."

24 A. Yes.

25 Q. Is that your experience?

1 A. I like to think it's -- all of it's a package. You
2 know, foster carers, in my opinion, don't do the job for
3 money. It is there to assist and it's there to help,
4 but they're actually there to give a home to the young
5 person.

6 Q. It goes on to say at 6.4.5:
7 "It has not had an immediate impact on the
8 authority's ability to attract new carers to the
9 service."
10 Then again it repeats the issue about word of mouth
11 being the most effective means of recruitment.

12 A. Mm.

13 Q. Then at 6.4.6:
14 "It is to be hoped that over time the new payment
15 structure combined with high-quality support services to
16 carers as outlined in the national foster care standards
17 will eventually lead to an improved capacity to recruit
18 additional carers."
19 I think we've heard evidence that there were
20 national standards published in 2005.

21 A. That's correct.

22 Q. So this is a bit before that?

23 A. Yes.

24 Q. Do you have any insight into what's being referred to?

25 A. Not in relation to that, no, sorry.

1 Q. It's okay.

2 If we can move on, please, to I think maybe the
3 final recommendation at page 20, at the bottom of the
4 page, 6.9, there seems to be a recommendation that
5 Highland Council decide on the appropriateness of
6 Barnardo's providing fostering services and agree the
7 priority age group."

8 Then, secondly:

9 "Barnardo's and Highland to approach the Scottish
10 Executive to discuss the availability of bridge funding
11 to support such developments."

12 Do you understand what Barnardo's were suggesting
13 that they might do at that point?

14 A. Only what's in relation to this. What I do know is that
15 Highland Council took forward fostering and adoption
16 services and the subsequent improvements and changes
17 that were required over the next how many years. So it
18 was very much in house.

19 Q. So it wasn't a partnership --

20 A. No.

21 Q. -- between Barnardo's and Highland Council?

22 A. No.

23 Q. Did Highland use Barnardo's to access specialist
24 placements, for example?

25 A. It used -- a lot of the information detailed in the

1 report was very much a catalyst for many of the changes
2 that came along. That was hand in hand with some of the
3 managers that came in post as well, which were in
4 agreement about not -- what does modernising mean, but
5 there were quite a number of activities that were
6 required, so that was very much to the fore.

7 Q. One of the issues that's touched upon, if I can take you
8 on to page 27, and at paragraph 10.5 we see there it
9 says:

10 "Mike Laxton's report commented on the need for
11 a significant cultural shift in the organisation. There
12 is much evidence already of a much more open,
13 transparent management style. Equally there is now
14 a very strong expressed commitment to corporate working.
15 These positive new developments will need to be
16 sustained to become integral features of how the
17 authority operates at all levels and if Barnardo's is to
18 be enabled to make a significant contribution."

19 Do you know what Mike Laxton's report was about?

20 A. I've seen it. I mean, what I would like to say is in
21 terms of Highland is it's an organisation which often
22 has brought external people in to do a review of
23 a service, and I think it's something that is sort of
24 built into the organisation and seems to get the benefit
25 from that, and that's certainly up to -- since I've

1 joined as well.

2 Q. Do you know what he was looking at? What was he
3 reviewing?

4 A. I'm not sure, sorry.

5 Q. Okay. Do you understand what's covered here in terms of
6 the shift of the organisation and a commitment to
7 corporate working?

8 A. I would have to get back to you on that one, sorry.

9 Q. Okay. In terms of what is said about the need for
10 a more open, transparent management style, is that
11 something that you think is important in leading
12 a fostering service?

13 A. Very much so, yes.

14 Q. Why?

15 A. Because again it goes right back to what you mentioned
16 at the start, which is about the vision: what are you
17 trying to achieve? It doesn't matter what level you
18 are, what the vision is and how you're trying to get
19 there, you have to be transparent with what that means
20 and what is required, and the expectations placed on
21 everybody.

22 Q. If we can leave that report now and go back to the A-D
23 response at HIC-000000051, and if we can just go back to
24 the page that we looked at before at 65, and we were
25 looking at 1999 and it says there was a temporary

1 director of social work put in place. In 1999 a new
2 permanent director of social work was appointed and the
3 head of children's services across social work, health
4 and education. It says the social work management team
5 was sparse and generic and they were responsible for all
6 operational activities.

7 Then in 2002 it says:

8 "The management of the fostering service was
9 centralised under a specialist manager who was
10 a designated fostering and adoption principal officer,
11 also responsible for looked-after children and child
12 protection and accountable to the head of operations ...
13 this was following a review of social work services or
14 proposed improvements to the current fostering scheme
15 which was to ensure that the national standards were
16 met, and to improve the range of placements available to
17 young people in Highland."

18 Was that one of the outcomes of this exercise in
19 1999?

20 A. Yes. I mean there was a clear recognition that not
21 having a manager that oversaw the whole services
22 potentially could impact on the practice that was across
23 the Highlands, so the manager was there to give it
24 focus, to give it drive and to ensure that the
25 appropriate standards, et cetera, were not only in place

1 but were being adhered to, and we had systems in place
2 that could identify that and show that.

3 Q. If we can look back, please, to page 9 and the bottom of
4 the page, we see an entry there:

5 "In 2000 -- Specialist Carer Scheme introduced.
6 A higher fee was paid to this group of foster carers who
7 cared for children with complex difficulties and were
8 deemed 'hard to place' or at risk of being placed in
9 residential care. In addition to the higher fee, their
10 internet connection was paid for by the Local Authority
11 to encourage online training."

12 Is that one of the outcomes of the Barnardo's
13 exercise and the review at that time?

14 A. It was. It was also about trying to get connectivity.
15 It would be interesting to know, though, when it talks
16 about the internet connection, because that remains
17 a problem to date, so I'm not sure about that one. I'm
18 not saying it didn't happen, but it would probably be --
19 people in some areas wouldn't be able to access that.

20 Q. You say that remains a probably today?

21 A. Yes.

22 Q. Presumably in some areas of the Highlands?

23 A. Yes.

24 Q. The higher fee paid to a group of carers caring for
25 children with complex difficulties, is that a concept

1 with which you're familiar?

2 A. Yes. It is. It's one of those -- the fees and
3 allowances are one area which we review. I think we had
4 our last review a couple of years, maybe two or three
5 years ago and we're due another one now, because it's
6 an ever-changing world and I'm aware at this moment in
7 time our allowances and fees are much lower than other
8 areas, so that's why we need to look at that, because we
9 wouldn't want that to have any negative impact on
10 carers.

11 Q. Can I just take you onto the next page, please, to
12 explore this a little bit more. The question there:

13 "Was the funding adequate to properly care for the
14 children?"

15 I think in relation to the first period, 1930 to
16 1975, it wasn't fully known from records held.

17 If we go on to 1975 to 1996, it says:

18 "Not fully known from records held."

19 In a meeting of March 1985, the fostering allowances
20 are raised in line with COSLA recommendations.

21 However:

22 "Inverness branch of Highland Foster Parents
23 Association claim the proposed rates are insufficient
24 and did not reflect the costs incurred by fostering."

25 Was that something that was found in the archives?

1 A. I believe so.

2 Q. Then if we look to 1996 to 2014, we see it says:

3 "Recommended allowances raised in line with COSLA
4 recommendations but not always satisfactory for the
5 foster carers. Increase in allowances in 2006, 2009 and
6 2012. However, it was reported in 2012 to committee
7 that many foster carers were finding it harder to fund
8 the service they provide, and were leaving or reducing
9 their availability in order to seek employment
10 elsewhere. This in turn also added to the cost of
11 supporting the care of very young children in foster
12 care."

13 A. Yes.

14 Q. Do you know what that's about?

15 A. Well, I think again with the Highlands you have
16 potentially greater cost in relation to travel,
17 et cetera. So in order for young people to be involved
18 in activities, et cetera, the costs probably were
19 greater for foster carers in some areas than others, so
20 it would have had an impact. And that might be -- one
21 thing that we have to consider is whilst we have the
22 fees and allowances, should there be a geographic part
23 added to that as well?

24 Q. If we look down again just in this page towards the
25 bottom of the page, we see a section headed again "1996

1 to 2014". I think it reiterates some of what we just
2 looked at, I think five lines from the bottom I think we
3 see it says:

4 "Though the Fostering Network recommended that
5 allowances increase at the same rate as inflation, this
6 often did not happen."

7 That looks as though the council weren't following
8 the Fostering Network recommendations at that point?

9 A. Again I think that just emphasises that in terms of
10 looking at allowances and fees, you have to review it
11 every couple of years. I don't think that ever stops.
12 The society changes, costs change. That's why you have
13 to keep that on the table.

14 Q. It says:

15 "It was also recognised that many children in foster
16 care had additional needs, which in turn cost more to
17 care for them."

18 A. That's correct.

19 Q. Why does it cost more?

20 A. Well, again they may have -- if they have physical
21 issues, it may result in more clothes needing to be
22 bought. If there's behaviour issues, that can sometimes
23 really result in damage to bedrooms, et cetera. So
24 things like that can have an impact.

25 Q. Then over the page on page 11, looking at the current

1 position, so this was submitted in I think July 2020, so
2 at (1) we see:

3 "Payments are made directly to foster carers by BACS
4 and paid fortnightly. There are additional allowances
5 paid per child as in section (h), fees are also paid and
6 up until 1 October 2020 ..."

7 LADY SMITH: January. 01.01.

8 MS INNES: Yes. I'm having trouble with figures today.

9 " ... 1 January 2020 these were paid per household.
10 From 1 January 2020 fees will be paid per child ..."

11 A. Yes.

12 Q. Was that a decision that was taken by the Council
13 internally?

14 A. Yes.

15 Q. Why was a decision made to change that?

16 A. Because some households had more than one child. It's
17 as simple as that. So therefore it was appropriate that
18 the family received funding.

19 Q. It says that they are age-related over or under 13
20 years.

21 A. Yes.

22 Q. Am I right in thinking that's two brackets of fees?

23 A. Yes.

24 Q. 0 to 13 and then 14 and up?

25 A. That's right.

1 Q. Was that another change that the Council made at that
2 time?

3 A. Yes.

4 Q. It says that there was a 20 per cent increase in the
5 amount of the fee paid.

6 A. Again, that would have been part of the review which
7 would have been looking at other areas, and we were
8 significant lower at that time as well.

9 Q. Is this something that is subject to another review?

10 A. Yes. As I was saying, it needs to remain on the table.

11 Q. Okay, thank you.

12 If we can look on, please, to page 17, we're seeing
13 here a question in relation to the ethos of the Council.
14 At 1982 we see:

15 "The council adopted a policy, the core of which was
16 the change of focus from long-term institutional care of
17 children to short-term institutional care with
18 an associated development of foster care provision. It
19 was hoped that the bulk of children in care would either
20 be with their natural parents or in foster care or
21 community care."

22 A. Yes.

23 Q. Is that change in focus -- this is obviously in the
24 early 1980s -- something that you're familiar with?

25 A. The change or --

1 Q. The change.

2 A. The change, yes.

3 Q. Has that continued to change and develop over time?

4 A. It has. Throughout that period it has, and then coming
5 right up to date, if you look, for example, at the
6 Promise, that is key, and it's asking us to -- you know,
7 all of us within that system, it's not just social work
8 but all partners within that system, about changing how
9 we do things and changing our focus.

10 Q. Just below that we see:

11 "In 1988 the Council's aim was to reduce the demand
12 on the fostering service by 50 per cent whilst
13 maintaining 250/300 pool of foster families to give
14 a real choice when matching children to families and
15 reduce the amount of time children had to wait for
16 an appropriate placement."

17 This is obviously 11 years before the report that we
18 looked at, but at that time it appears that one of the
19 Council's aims was to have choice.

20 A. Yes.

21 Q. Again to do with the geography of the Highlands, is
22 there a particular need to have availability of carers
23 in different locations with different skills so that
24 a child can be placed quickly if there is a need?

25 A. Yes. If you are looking at -- so the emergency

1 placements or the crisis placements, which can be for
2 a variety of different reasons, what you don't want to
3 add if the child is in crisis -- might not always be the
4 case, but having to then transport a child over many
5 miles would just add to the distress. So it is really
6 important that we manage to have carers across the whole
7 area. That brings its own challenges, because something
8 like a crisis case might not arise very often, so you
9 have to -- how do you keep carers trained, et cetera,
10 and then on hand for when it arises? So it is
11 a challenge, but it's definitely something that we just
12 need to do.

13 Q. If we can move on, please, to page 23, at (f):

14 "In 1982, the foster carer's role was seen to be
15 fairly straightforward, however by 1988 it was obvious
16 that there was a huge demand for more specialised foster
17 assessments and placements for pregnant girls, young
18 mothers and babies, children over 14, sexually abused
19 children and children with psychological difficulties.
20 To meet these demands, the style of foster care
21 provision was re-evaluated and a move to much more
22 specialised recruitment, training and support for foster
23 parents."

24 Again, is this shift in view of the role of the
25 foster carer something that's familiar to you?

1 A. Yes. Obviously at that time it's understanding
2 research, et cetera was starting to come through from
3 society, and that's what was informing our practice that
4 needs to change accordingly.

5 Q. At the bottom of this page in a section which I think
6 begins, "In 2000", and then there's a line:

7 "In December 2006, the Scottish Executive launched
8 a consultation process with the aim of developing
9 a national fostering and kinship care strategy."

10 Then it refers to various government documents and
11 it says at the end of the page:

12 "The consultation paper addressed to some extent all
13 of the community-based options for alternative family
14 placement with particular emphasis on fostering, and for
15 the first time, on kinship care and private fostering.
16 The report acknowledged the role that extended family
17 members and friends played in providing care for
18 children and support to their parents in many cases."

19 Sorry, that goes on to the next page.

20 We see at the top of the page the reference to what
21 was said in the report.

22 It then goes on in your response to say:

23 "A key question posed by the consultation is how
24 services to looked-after children might be improved and
25 what can be done to recruit, retain and support carers

1 in larger numbers. It acknowledges that Local
2 Authorities in Scotland do not have sufficiently large
3 or diverse pools of foster carers to meet need and
4 provide choice."

5 I think that's one of the issues that you have been
6 addressing?

7 A. Yes.

8 Q. It then goes on to say:

9 "Unfortunately, the paper falls short of an in-depth
10 analysis of the impact of the changing role of women in
11 society, the changing needs and demands of the children
12 being looked after and the implications for the kind of
13 people needed as carers, how they might be equipped and
14 supported and feel valued. This information is critical
15 and will be required if the strategy is to be
16 successful. It should also be noted that the number of
17 looked-after children and young people continued to
18 increase nationally with a rise of 6 per cent being
19 reported for the year 2005-2006 and that demand for
20 alternative care arrangements was growing. The
21 strategy, if it is to have any real impact on supply of
22 carers, needs to address this."

23 This reads a little bit like it's been perhaps
24 lifted from a response that the Local Authority did at
25 the time to the consultation rather than a reflection

1 now? I'm not sure if you can help with that?

2 A. I don't know, sorry.

3 LADY SMITH: I see what you mean, Ms Innes. It would fit,

4 wouldn't it?

5 A. Yes. I'm wondering if it was a committee report.

6 MS INNES: That's been used to inform part of the response?

7 A. Yes.

8 Q. Clearly, if that's correct, it looks as though the Local

9 Authority had some concerns at the time about the

10 analysis that had been done and things that needed to be

11 addressed --

12 A. Yes.

13 Q. -- to make a difference.

14 A. I don't know if it -- reading it through eyes now,

15 there's also a part with that which is a very -- there's

16 been a -- for me, quite a realistic analysis going on as

17 well, because it has broadened it up to show that there

18 would be quite a significant amount of things needing

19 done in order to achieve what was being proposed.

20 Q. Okay.

21 So you mean that at the time, when it was talking

22 about the role of extended families and there was

23 a suggestion about using alternative arrangements, are

24 you saying a lot of work would need to be done to put

25 that in place or do you mean something else?

1 A. I think on paper, people would not have argued with
2 that. They would probably have said that makes complete
3 and utter sense. However, where I think the suggestion
4 is the paper fell short was that in order to do that,
5 it's not simply about just having additional numbers.
6 The world was becoming more complex, problems that we
7 were aware of were coming to the fore, trauma,
8 et cetera, we're having to deal with those.

9 Therefore the suggestion or the proposals, yes, but
10 in order to achieve that was going to require quite
11 another part of significant investment, training,
12 et cetera.

13 Q. So you'd be looking at recruiting carers and assessing
14 them, you'd be looking at training, you'd be looking at
15 the staff to support them.

16 A. And also the focus on the carer was increasing as well.
17 I mean, if you -- historically, if you go back, the
18 focus probably wasn't. It was carers cared. But they
19 actually -- are you safe? Are you achieving what you
20 should be achieving with the young person, et cetera?
21 That emphasis was really increasing. That might not be
22 very attractive to some people.

23 Q. If we can look on at the bottom of this page and onto
24 the next page, the response sets out some information in
25 relation to the numbers of children in foster care. If

1 we go on to page 25, for 1930 to 1975 it's noted that
2 there was some statistical information, but the number
3 of foster placements, for example, is never made clear.
4 It looks like no numbers were able to be extracted for
5 that period.

6 A. Speaking from today's eyes, that's really quite
7 surprising.

8 Q. Why do you say it's surprising?

9 A. Well, you would like to know where all your children are
10 and you'd like to know where all your foster carers are.

11 Q. Then there's a note of -- in 1963, I think a couple of
12 dates, 55 children and then 54 children.

13 A. (Witness nodded)

14 Q. Then from 1975 to 1996, the Council seems to have been
15 able to put together some information about the number
16 of children in care.

17 I think if we go down to the very bottom, there seem
18 to be a whole number of figures for 1995 at various
19 months, February, April, June, August, September,
20 November, at which point there's 214 children in foster
21 care and 225 foster carers.

22 Then December 1995, 184 children, 223 foster carers.

23 Then in 1999, 239 children in foster care and 157
24 foster carers. So that's at the time of the report that
25 we looked at?

1 A. Yes.

2 Q. It appears from the statistics that the Local Authority
3 were able to find that the number of children in foster
4 care had increased quite significantly --

5 A. Yes.

6 Q. -- and the number of foster carers had also decreased
7 significantly?

8 A. Yes.

9 Q. Then if we go on to the next page, please, I think you
10 then take us through some more recent figures. If we
11 just scroll down a little, towards the end of this
12 period, 2013/2014, there were 175 children in foster
13 care. Has that remained broadly the same or have there
14 been any significant changes since 2014, do you know?

15 A. We currently have 150 children in foster care.

16 Q. Do you have separate figures for children in kinship
17 care?

18 A. Yes. We currently have 83 children in kinship care.
19 But we also have, sorry, we also have kinship carers
20 who have orders, children on orders, so that actually
21 takes the number up to 114.

22 Q. When you say they're "on orders", what orders?

23 A. Statutory orders, sorry. So you'll have some children
24 in a kinship situation but not on any statutory order.

25 LADY SMITH: Then you have some where it's a condition that

1 they live at a certain place with named kin, to use the
2 old expression?

3 A. Yes.

4 LADY SMITH: Do you have any current figures for the number
5 of available foster carers?

6 A. Foster carers, we have 119.

7 LADY SMITH: Thank you.

8 A. And of those, we have quite a number of independent
9 fostering agencies as well within that. Some are in and
10 some are outwith Highland. So at the moment we have 105
11 children with Highland Council foster carers --

12 LADY SMITH: Thank you.

13 A. -- and 45 with independent.

14 LADY SMITH: Thank you.

15 MS INNES: I think you said of those independent providers,
16 some of those are outwith Highland region --

17 A. Yes.

18 Q. -- is that right?

19 A. Yes.

20 Q. Just again looking at the current time, is there any
21 strategy on the part of the Local Authority to use their
22 own carers as opposed to using the independent
23 providers?

24 A. Yes. Very much so. I mean I'd also like to say,
25 looking at the bigger picture as well, you know

1 within -- looking at practice, so that we're managing to
2 keep children with their families is our starting point,
3 very much so.

4 We then have kinship.

5 Then we have fostering.

6 So we're actively looking at all of that.

7 Occasionally a child may need to go out of the area,
8 but that needs to be because there's a need to, not
9 because there's a lack of resource, and I think that's
10 really important. That's where our focus is on: keeping
11 as many children as we possibly can in the area and with
12 their family, where appropriate.

13 Q. If we can move on, please, to page 39 of the report,
14 a question is posed here at the top of the page:

15 "Were children moved between different foster care
16 placements?"

17 At 1996 to 2014 there's reference to:

18 "An independent report by Who Cares? tracking seven
19 young people being looked after over a three-month
20 period identified major shortfalls in practice and said
21 there was frequent placement breakdown or change in
22 Highland."

23 Have the Council been able to find that report?

24 A. Not that I'm aware of, no.

25 Q. Do you know when it was carried out in that period,

1 roughly?

2 A. No, sorry. I can find that.

3 Q. If you'd be able to give us an idea of that date, it
4 would be very helpful. Thank you.

5 A. Mm-hmm.

6 Q. This seems to be a report that tracked some young people
7 and indicated some shortfalls. Is placement breakdown
8 an ongoing issue or not?

9 A. It's one where, if we do have a placement breakdown now,
10 we immediately trigger meetings to see why, what's going
11 on, is there anything else we can do to -- so if the
12 young person doesn't have to move? I'd like to think
13 that would happen before, sooner rather than later.

14 But, no, it's one that we've actively worked on over
15 the years and that's where the training, expectations
16 and support available to foster carers has really been
17 ramped up, because that's where the -- I would say
18 that's where some of this was lacking, was the
19 additional support and help.

20 Q. Okay, sorry, I was just looking at your addendum,
21 because I think you provided an answer at that point to
22 the Council searches for the Who Cares? report.

23 A. All right.

24 Q. You say that it was referenced in a report to the social
25 work committee on 11 March 1999.

1 A. Right.

2 Q. It looks as though it was carried out round about the
3 same time as we've seen these other reports.

4 LADY SMITH: That was presented to a Council committee?

5 MS INNES: It was, my Lady. So it's referenced in a report
6 to the social work committee on 11 March 1999.

7 LADY SMITH: Thank you.

8 MS INNES: Can I ask you, please, sorry, I'm going back and
9 forward. I wonder if this might be a good idea --

10 LADY SMITH: I think you need a break, Ms Innes.

11 MS INNES: I definitely need a break.

12 LADY SMITH: I'm sure we'll all welcome it.

13 Let's take a break just now and we'll sit again by
14 no later than 11.45, please.

15 (11.28 am)

16 (A short break)

17 (11.45 am)

18 LADY SMITH: Fiona, are you ready for us to carry on?

19 A. I am, thank you, my Lady.

20 LADY SMITH: Thank you.

21 Ms Innes, when you're ready.

22 MS INNES: Thank you, my Lady.

23 If we can look on in your A-D response,
24 HIC-000000051, to page 49, please. And to question (e),
25 which is in relation to fostering panels.

1 I think we see in February 1986 it's noted that the
2 boarding-out regulations from 1985 were mentioned in
3 relation to establishing a fostering panel and it was
4 said:

5 "The necessary arrangements were in hand ... the
6 regulations set out a minimum of good practice in foster
7 care and this guidance would be of undoubted benefit to
8 fieldwork staff and staff in the children's resources
9 section in undertaking the additional burden imposed by
10 the new regulations."

11 That looks like it was a quote, perhaps, from
12 minutes at the time?

13 A. Yes.

14 Q. Then in 1988:

15 "It was proposed to combine the fostering and
16 adoption panel into a family resource panel,
17 a permanency panel and a matching panel."

18 With different roles.

19 In 1995, if we scroll down a little, it says:

20 "... it is confirmed that the panels have been
21 operating as the alternative families panel -- who
22 scrutinise reports on prospective adopters and foster
23 carers and make recommendations to the director of
24 social work regarding their approval."

25 It appears it's a different name, but it still seems

1 to be a fostering and adoption panel at that time?

2 A. Yes.

3 Q. In 1995, it talks about merging the panels to become the
4 fostering and adoption panel, and then in 2005, the two
5 panels separate again?

6 A. Yes.

7 Q. In terms of the history of adoption and fostering
8 panels, is this something that's familiar to you?

9 A. It is. I think it highlights the changing world around
10 fostering and adoption and whilst it looks as bouncing
11 between one to the other, I think part of that will be
12 based on experience, issues that were arising, volume of
13 work, et cetera, and I think that's where that came
14 from, is which is the best fit to enable the work to be
15 done.

16 Q. If we go over the page, at the top of the page I think
17 we see reference to an independent chairman had been
18 appointed in April 2007, and then in 2006, the fostering
19 panel became a discrete panel, combining the functions
20 of the then fostering review subgroup with the approval
21 of applicants, and it's noted that for the remainder of
22 the period the permanence and fostering panels remained
23 separate.

24 A. Yes.

25 Q. Does that remain the same today or have there been more

1 changes?

2 A. Yes, we're actively looking at it again though, not just
3 for change's sake but to actually see if there's
4 anything that we need to do to improve performance and
5 process.

6 Q. What sort of things are you looking at in terms of
7 improvement?

8 A. Well, it's just to see: is it working effectively? Are
9 we actually achieving what we need to achieve? So when
10 I say a review, I suppose it's a really -- a good stock
11 take of are we actually meeting our requirements?

12 Q. If we can move on, please, to page 54, in the bottom
13 half of that page we see a question in relation to
14 checks carried out in relation to a prospective foster
15 carer. In the period 1975 to 1996 there's reference
16 there to a 1989 circular from the Social Work Services
17 Group with a report dated 29 August 1989:

18 "... relating to a requirement that from
19 25 September 1989, social work departments were to check
20 with the Scottish Criminal Record Office the possible
21 criminal background of persons applying to the
22 department for a position, paid or unpaid, which would
23 give them substantial access to children."

24 There's then another quote:

25 "The new arrangements were based on procedures

1 already well established within the Council and these
2 had operated satisfactorily for a number of years."

3 Again, is that material that's taken from Council
4 minutes at the time?

5 A. I'm not sure, apologies.

6 Q. It appears that the Council have found some reference
7 somewhere to this circular, suggesting that there should
8 be criminal records checks, but it looks as though the
9 Council had already been doing that --

10 A. Yes.

11 Q. -- before 1989 --

12 A. That's correct.

13 Q. Moving on from there, there's reference at the bottom of
14 the page to 2002, and the disclosure being introduced
15 then. Then the protection of vulnerable groups, PVG,
16 scheme was introduced in 2011 for anyone who was looking
17 after or working with vulnerable groups.

18 In terms of checks on the carer and others within
19 the household, is it still the PVG that's done or has
20 that changed over time?

21 A. No, that's what's done, but we've extended it to include
22 new partners, et cetera, or ex-partners, if they're
23 involved with the family as well.

24 Q. You would look at, perhaps, a former partner who shares
25 children with the foster carer --

1 A. That's correct, yes.

2 Q. -- and maybe has contact with those children. Is that
3 what you mean?

4 A. That's correct.

5 Q. Okay. Because I think we know from other sources that
6 there was a report from Brighton and Hove --

7 A. That's correct.

8 Q. -- I think maybe in 2001, which I think provided that
9 ex-partners had to be checked, but was that at the time
10 of assessment of a carer?

11 A. It can be during as well. I think it's just not to
12 ignore that. I think that's the important bit.

13 Q. What about other people who have contact with the child
14 in placement? What criminal record checks are carried
15 out in relation to them?

16 A. In terms of obviously professionals, social workers will
17 be checked. Are you just talking about contact?

18 Q. Contact. Yes, so people that maybe take the child for
19 a sleepover or are maybe a member of the wider family.

20 A. Regarding daily contact with individuals, the foster
21 carers as part of their training are -- that
22 conversation around keeping the child safe, what to look
23 out for, safeguarding, et cetera, that's all there.

24 We also say that a foster child shouldn't stay in
25 another address unless they have discussed that with the

1 social worker as well, and then they do a risk
2 assessment on the appropriateness of that, and that also
3 includes even going on holiday, just so that the child
4 is taken away to another area.

5 Trying to get that balance between a normal life,
6 for want of a better expression, but to give the foster
7 carers responsibility as well as formal checks as and
8 when appropriate.

9 Q. We've heard some evidence about young people saying that
10 the knowledge that people have to be checked before they
11 can go on holiday with them or have a sleepover is
12 an issue.

13 A. Yes.

14 Q. But you're saying you're trying to balance that with the
15 safety of the young person?

16 A. Yes.

17 Q. Can I take you on to another part of the Local
18 Authority's response, please, to page 128. Here this is
19 Part D of the response and it's looking at abuse
20 suffered by children in the care of the authority and in
21 foster care.

22 If I can look on, please, to page 129, at question
23 5.2 towards the middle of the page, the question there:

24 "What is the Local Authority's assessment of the
25 scale and extent of abuse of children in foster care?"

1 It says:

2 "The Local Authority sampled files that were
3 available for the whole period. However, files were
4 available from 1960."

5 I'll come back to that.

6 "While there were 58 allegations, as noted below
7 many did not proceed due to lack of evidence."

8 A. Yes.

9 Q. I think from the Local Authority's case file review,
10 they identified 58 allegations?

11 A. Yes, that's correct.

12 Q. Okay. Then the question is:

13 "What was the basis of that assessment?"

14 There's reference to different periods of time and
15 a total number of files held, the number of files read
16 and the number of allegations found. Can you explain
17 what process the Council undertook to do its case file
18 review? I can take you to the addendum if that would
19 assist you.

20 A. Please, yes.

21 Q. If we can look, please, at HIC-000000064, and on the
22 first page the Inquiry were asking some follow-ups and
23 it was our understanding that a 10 per cent sample had
24 been taken.

25 A. That's correct.

1 Q. And we asked why a 10 per cent sample was taken. Do you
2 understand why?

3 A. I'm advised that the Chief Social Worker before me was
4 part of Social Work Scotland group that was looking at
5 this submission and at the start of that they were
6 advised that a 10 per cent sample was okay to do, and
7 there was other Local Authority areas that also said
8 they were going to do a 10 per cent sampling of files.

9 Q. Okay.

10 A. And it would appear that whilst I was aware of those
11 conversations as well, I was aware that that
12 conversation changed during time and people were
13 starting to go, "No, it's not 10 per cent sampling, it's
14 you have to do them all". It would appear that that did
15 not go back to Highland Council.

16 Q. When this process was ongoing, as we've said --

17 A. Yes.

18 Q. -- you were at Clackmannanshire, and how many or what
19 proportion of the files did Clackmannanshire read?

20 A. All.

21 Q. Okay. Was that children's files or foster carer files?

22 A. Foster carer files.

23 Q. Okay.

24 A. And I suppose the -- all areas have done this
25 differently, but when you make the decision to do all

1 files, you therefore have to set up a team in relation
2 to that, because when you then look at your numbers, you
3 know what's manageable and what's achievable with
4 a certain amount of people.

5 Q. When you say that there was the suggestion of
6 a 10 per cent sample from Social Work Scotland, can you
7 just explain how that came about?

8 A. There was a section 21 group that was set up
9 specifically in relation to this, the foster carers part
10 of it, and they met on a regular basis and part of that
11 was to just work through what did they ask and just to
12 provide clarity for people to take back to their own
13 areas to help them/assist them with actually pulling
14 together the information for the Inquiry.

15 Q. Okay.

16 LADY SMITH: When you said that Highland were advised to do
17 10 per cent, that advice came from this social work
18 group, did it?

19 A. It did. I actually do remember that conversation, but
20 that's going back to the start of this.

21 LADY SMITH: It's a small sample.

22 A. Yes.

23 LADY SMITH: Particularly given the nature of what's being
24 looked for.

25 A. I agree.

1 LADY SMITH: Thank you.

2 Ms Innes.

3 MS INNES: Thank you.

4 So, in any event, Highland took a 10 per cent sample
5 of the files I think available for each decade and it
6 says in the next answer:

7 "A hybrid model of sampling was employed to achieve
8 the 10 per cent for foster carer files."

9 Are you able to explain this hybrid model?

10 A. Well, as the files were chosen, they were chosen -- if
11 there was any mention of or any indication of abuse in
12 them, they were then put to the side to be read
13 properly. They would then pick up another file, so it
14 wasn't just a case of that's part of the 10 per cent --
15 or it was part of the 10 per cent, but they would then
16 go I'll pick another file up just to make sure and bring
17 that into the sampling.

18 Q. Okay. It says that there's a central register of foster
19 carers who had been the subject of an allegation or
20 investigation and that's been maintained since 2004:

21 "All such files were identified and reviewed."

22 A. That's correct.

23 Q. Then we were asking whether there was a log and it's
24 noted there that prior to that, the Council weren't
25 aware of any central record or log being held.

1 A. No.

2 Q. Then we asked in the next question about whether it was
3 foster carer files or children's files, whether any
4 children's files were read and it's said:

5 "We apologise that the Council's response was
6 unclear. In situations where an allegation had been
7 made against the foster carer, the children's files were
8 identified, retrieved and read."

9 A. Yes.

10 Q. "We did not read the files of all of the children who
11 had been placed with the carer if no allegation had been
12 made. This decision was influenced by the potential
13 volume of such files, resource available and time
14 constraints."

15 A. That's correct.

16 Q. Then to get a further sense of the sample, at the bottom
17 of the page the Inquiry asked some more questions and
18 it's noted in answer:

19 "In the Council archive in Inverness there were 177
20 foster carer files for the period between 2000 and 2010.
21 A sample of 16 files were retrieved and reviewed."

22 So that's that period.

23 A. Yes.

24 Q. Then for the period between 2010 and 2014, 47 files were
25 held and a sample of five files was retrieved and

1 reviewed.

2 It then goes on to say:

3 "A further 89 files for 2000 to 2010 and 65 for 2010
4 to 2014 were identified. These files had not been
5 archived to the central location and were located in
6 different offices across Highland."

7 I think you mentioned that at the beginning of your
8 evidence --

9 A. Yes.

10 Q. -- that it was discovered --

11 A. Yes.

12 Q. -- that there were files not held in the central
13 archive.

14 A. That's correct.

15 Q. And a sample of 16 files was identified for retrieval,
16 but they weren't read because the pandemic and the
17 geographical spread of the offices. So they weren't
18 included in the case file audit.

19 A. That's correct.

20 Q. Okay.

21 LADY SMITH: Just going back to what was said initially in
22 this section, starting with the apology that the
23 Council's response wasn't clear, the answer says:

24 "In situations where an allegation had been made
25 against the foster carer, the children's files were

1 identified, retrieved and read."

2 What if the allegation was against somebody else

3 within the foster environment but not the carer? Do you

4 see what I mean?

5 A. A family member or something else, yes.

6 LADY SMITH: A babysitter.

7 A. Yes.

8 LADY SMITH: Looking at it from the point of view of the

9 child, a child who was abused whilst in foster care --

10 A. Yes.

11 LADY SMITH: -- who makes an allegation, and it may not be

12 an allegation against the foster carer.

13 A. Yes.

14 LADY SMITH: Does that tell me if that's what it was, it

15 wasn't looked at?

16 A. No. It's if within a foster carer household there was

17 three children and one child made an allegation against

18 the foster carer, their file was looked into but the

19 other children's files weren't.

20 LADY SMITH: Right. I see.

21 MS INNES: What if the allegation was against another child

22 in the placement? Would that have featured on the

23 foster carer file?

24 A. An allegation against a child?

25 Q. Yes, another child in the placement, whether a child of

1 the foster carer or not.

2 A. That would have triggered an internal process and
3 investigation to see, then that would have gone through
4 the social worker to the manager.

5 Q. Would that sort of allegation have been in the log from
6 2004 onwards?

7 A. That might -- I'm not 100 per cent sure on that.
8 I would question whether that would be regarded as
9 an incident within the family that needed to be looked
10 at to see if they could work with the family to resolve
11 that matter.

12 Q. Okay.

13 A. I can double check that, if you ...

14 Q. That would be helpful, thank you.

15 I do think if we look back at HIC-000000051, please,
16 I do think that out of the 58 allegations, you did
17 identify allegations against other members of the
18 family.

19 A. Yes.

20 Q. If we look at page 130, at the bottom of the page, at
21 (g):

22 "Against how many family members of foster carers
23 have complaints been made in relation to alleged abuse
24 of children?"

25 It says:

1 "Out of the 58 allegations made, 10 have been made
2 against family members of the foster carers."

3 A. Yes.

4 Q. You were asked if any of those had been convicted or
5 admitted abuse and the answer was that they hadn't. So
6 it looks as though you've been able to identify some
7 allegations against family members, but I suppose we
8 don't know how you did that.

9 A. If that was detailed in the file, I'm assuming in
10 relation to this that this was adult family members, and
11 that would have been a referral to the police or joint
12 investigation for it to be pursued that way.

13 Q. Okay. So it could have been found that way.

14 A. Yes.

15 Q. It would be helpful, Fiona, if you could just give us
16 a little bit more detail about the review --

17 A. Mm-hmm.

18 Q. -- I appreciate that you weren't there at the time, so
19 it is difficult for you.

20 In terms of the material here that we can see at
21 (e), the Local Authority was asked:

22 "How many foster carers have been convicted of or
23 admitted to abuse of children?"

24 It was noted there:

25 "Two foster carers have been convicted of abuse

1 against the children within their care."

2 A. Yes.

3 Q. With the Council's response there was an appendix which
4 indicated that two female foster carers had been
5 convicted of offences, I think possibly in the 1990s,
6 under section 12 of the 1937 Act.

7 But there's reference there to two other carers
8 currently awaiting their case to be heard in court and
9 the case had been delayed due to the pandemic.

10 A. Yes.

11 Q. I think you are aware that a foster carer who had been
12 looking after children placed by a Highland Council was
13 convicted in December last year in respect of sexual
14 offences against children in his care.

15 A. That's correct.

16 Q. I think he's not been sentenced yet; is that right?

17 A. No.

18 Q. I think those offences were around 2012/2013?

19 A. That's correct, yes.

20 Q. Do you know if that case was referred to in Highland's
21 response?

22 A. It was clarified in the addendum, yes.

23 Q. Yes, I think you gave some initial information about
24 this. If we could look, please, at "Impact" on
25 page 138, of HIC-000000051. The heading "Impact" there,

1 you've been asked:

2 "What is known about the impact of abuse on those
3 children in foster care who were abused or alleged to
4 have been abused?"

5 A. Yes.

6 Q. There's various statements there about what children
7 have experienced. If we go on to the next page of this
8 answer, page 139, there's a paragraph:

9 "Where children were placed with a sibling, they may
10 behave as a protective factor for their sibling. In one
11 particular case the foster carers raised their concerns
12 about the younger sibling being smothered by the older
13 sibling as she would not let him out of her sight. In
14 this case a younger sibling was eventually moved to
15 another placement as a result of the older sibling's
16 inability to allow her younger brother out of her sight.
17 Her overprotective and smothering nature was seen as
18 both detrimental to her and her sibling. The reason the
19 older child was concerned was that she was trying to
20 protect her brother to ensure that he would not be
21 abused as she later alleged that she was being. This
22 case is currently in the court system."

23 Is that the case in respect of which the carer was
24 convicted in December last year, do you know?

25 A. I actually don't know that answer.

1 Q. Sorry?

2 A. I don't know that answer, sorry.

3 Q. Perhaps it might be helpful to the Inquiry if you were
4 able to look at that and come back to us to confirm the
5 position.

6 A. Okay.

7 LADY SMITH: I don't suppose, Ms Innes, you have to hand the
8 date we received these further responses, because that
9 would maybe help Fiona.

10 MS INNES: The addendum response?

11 LADY SMITH: Yes.

12 MS INNES: I don't, my Lady. I think I would need some
13 assistance with that.

14 LADY SMITH: We can check, and if you can check at your end
15 as well, Fiona.

16 A. Yes. Apologies.

17 MS INNES: Okay, so in any event we know that a carer was
18 convicted recently. Has there been any -- and it's
19 relatively recent, 2012 to 2013. Has there been any
20 significant case review, any internal review, anything
21 following on from that?

22 A. In relation to -- specifically in relation to this one?

23 Q. Yes.

24 A. Not a significant case review, no. There was -- because
25 in relation to this one, although the offence is

1 committed between 2012 and 2014, guilt was established
2 in October 2017, so since that time, as with practice in
3 general, what we have done is look at an internal review
4 of what happened, what didn't happen, looking at the
5 case. So it wasn't a significant case review or
6 anything, but it was about what the factors involved in
7 that were.

8 Particularly in relation to this case, I do know
9 that there had been allegations and a list of children's
10 names were given to the police. All were interviewed at
11 various stages and unfortunately at that time no child
12 said there had been any abuse. It was actually a later
13 date that one of the children came back and said -- that
14 they were strong enough to actually say they had been
15 abused.

16 Q. Okay.

17 A. So again part of that within internally, when talking to
18 managers and staff, has been about giving children
19 enough room and people to speak to in order to disclose
20 or be able to disclose, because that's one thing that it
21 really identified.

22 The other part is in relation to the foster carers
23 themselves. Again, speaking to the manager involved,
24 very well-respected, had passed all their checks. And
25 that was one of the issues. There's nothing that was

1 arising from that.

2 Again, that's all feeding back into what you're
3 presented with, and how do you then make risk
4 assessments around that that are robust and reasonable.

5 Q. Now a moment ago in your answer you referred to guilt
6 being established, I think you said, in 2017.

7 A. Yes.

8 Q. We know the conviction was more recent --

9 A. Sorry, I got the wrong date. Sorry, it was
10 December 2021, sorry.

11 Q. I wondered whether you were referring to some earlier
12 process that the Local Authority had established.

13 A. No, sorry.

14 Q. Am I right in thinking that the carers were
15 de-registered in this case?

16 A. They left the area, so they left the area before they
17 had -- we had de-registered them.

18 Q. Is that an issue then in terms of learning and
19 identifying what's going wrong, if somebody leaves --

20 A. Yes.

21 Q. -- before there's a process?

22 A. Very much so, because it can't just stop. There's
23 potentially a risk then to other areas, so ...

24 Q. How do you deal with that? For example, if somebody
25 thinks that they might be de-registered and resigns

1 before the de-registration panel?

2 A. Again, you don't always know where the person goes.
3 That's one of the issues. So I think it's actually
4 speaking to our colleagues that they work alongside with
5 to see people -- can they check the systems to see if we
6 know where they are and then can we alert areas to what
7 we have. Obviously there's data protection in there,
8 but there's child protection issues so I think that
9 would then override that.

10 Q. I think apart from that particular case, another case
11 that hadn't been mentioned in your response and was
12 highlighted when you were asked further questions was
13 the conviction of Thomas Lane.

14 A. That's correct.

15 Q. If we could look at JUS-000000085.

16 LADY SMITH: Fiona, just before we look at that, following
17 on your previous answer, is there any system whereby
18 Local Authorities in Scotland can consult a register,
19 a database, to tell them who currently are registered
20 foster carers right across the country?

21 A. We all have our own database.

22 LADY SMITH: Would it be helpful, in terms of it being
23 a good thing for children who might be going into foster
24 care, if every Local Authority could see what the
25 position is regarding the registration of somebody with

1 another Local Authority?

2 A. I would certainly think so. It's a -- fostering and
3 foster carers in my opinion should be on a national
4 basis, you know, and to remove any potential barriers,
5 whether it be about placing a child or the safety of the
6 child.

7 LADY SMITH: I appreciate there would no doubt be data
8 protection considerations, but it's hard to believe they
9 couldn't be met --

10 A. That's correct.

11 LADY SMITH: -- through appropriate data-sharing agreements,
12 taking consents or whatever from the people in the first
13 place --

14 A. Yes.

15 LADY SMITH: -- but look at it from the point of view of
16 child protection --

17 A. Very much so.

18 LADY SMITH: That would seem to be sensible.

19 A. Yes.

20 LADY SMITH: Thank you.

21 Ms Innes.

22 MS INNES: Thank you, my Lady.

23 I think we have the conviction of Thomas Lane in
24 front of us. I appreciate that you might not have seen
25 this before, Fiona. I think we see that Thomas Lane was

1 convicted at Tain Sheriff Court back in 2007. If we
2 look on, we see that he was convicted of sexual
3 offences, so between 1978 and 1979, 1982 and 1984, 1984
4 and 1985.

5 If we move on to the next page, again further sexual
6 offences between January 1982 and November 1983, 1993
7 and 1996.

8 If we go on to the next page, in handwriting, if we
9 just scroll down a little I think we see a note that the
10 accused pled guilty to the charges under certain
11 deletions.

12 A. Mm-hmm.

13 Q. I think if we move on to the next page, we can see that
14 there was -- on 5 November 2007, this is a certification
15 that Thomas Lane was convicted and that the offence was
16 a sexual offence under the relevant legislation.

17 You're aware, I think, that Thomas Lane was a foster
18 carer for Highland Council?

19 A. He was.

20 Q. Have you been able to make any enquiries in relation to
21 this conviction and are you able to explain why it
22 wasn't mentioned on your original response to the
23 Inquiry?

24 A. The file that we had on Thomas Lane was given to the
25 police as part of their investigation into alleged

1 sexual abuse. We then went back to Police Scotland and
2 asked for the file. They did extensive searches and
3 have been unable to locate the file. So it never
4 actually came back to us. So we were unaware of the
5 subsequent offences and charges.

6 Q. Okay, thank you.

7 Can I take you, please, to Part B of your response,
8 so back to HIC-000000051, page 69. It's the bottom of
9 the page, "Acknowledgement of abuse":

10 "Does the Local Authority accept that between 1930
11 and 17 December 2014 any children cared for in foster
12 care were abused?"

13 What's the Local Authority's answer to that?

14 A. We accept that some children were probably abused, but
15 not all.

16 Q. Okay. We've looked at one conviction, at least. When
17 you say we accept that they were probably abused, are
18 you looking behind that conviction or not?

19 A. No, sorry, just the way that was worded there, I thought
20 you were saying all children who were in foster care
21 were abused.

22 Q. No, it's asking any children. Were any children abused?

23 A. Well, it would -- yes.

24 Q. Okay. The Local Authority notes there that obviously
25 there were the 58 allegations of abuse --

1 A. That's correct.

2 Q. -- and you provided details about convictions. On
3 further scrutiny, it's said, many of them remained
4 unsubstantiated:

5 "The files illustrate that more often than not, very
6 robust investigations were carried out and these are
7 evidenced in the files. There are occasions where it is
8 difficult to see how an allegation has been handled as
9 this is evident in a handful of files. Very few
10 investigations of alleged abuse proceeded to foster
11 carer de-registration or criminal proceedings. There
12 were a small number of occasions where alleged abuse was
13 made against the family and friends of foster carers."

14 Just in terms of allegations being unsubstantiated,
15 is that an issue? Does it prove a challenge?

16 A. Well, not all, when an allegation or emerges or is said,
17 it's looked into. Some will be via social worker
18 manager et cetera, some will be via joint investigation
19 with the police, depending on the incident.

20 So processes and procedures are followed. I think
21 there's no getting away from part of this is we're
22 looking at this through today's lens, which is very
23 different to many years ago. And the different ethos,
24 culture, et cetera, that was there. So that's there.

25 Q. Mm-hmm.

1 A. But it's not -- it's definitely not an allegation is
2 ignored. No, it is pursued.

3 Q. Okay.

4 LADY SMITH: I take what you say, Fiona. This question
5 related to the entirety of the period between 1930 and
6 2014, and the answer tells me that more often than not,
7 very robust investigations were carried out.

8 A. Yes.

9 LADY SMITH: Am I really to take it that that was the
10 position throughout that 84-year period? Even given the
11 approach in the 1930s and the 1940s, for example? Very
12 robust investigations?

13 A. I think when you look at: is anything substantiated?
14 And the answer's usually it's not. I know from my
15 police colleagues, obviously they're often looking at
16 was there criminality, and that's quite specific. But
17 when we're getting down to was there abuse, it ranges so
18 much, and I think that's part of the investigation when
19 you start looking at each individual case, was: how is
20 that quantified? What does it actually mean?

21 LADY SMITH: No doubt one hopes that very robust
22 investigations were carried out every time an allegation
23 was made --

24 A. Yes.

25 LADY SMITH: -- but I do wonder if that should be stated

1 quite as confidently as it is. Am I justified in that?

2 A. Yes ...

3 LADY SMITH: Thank you.

4 Ms Innes.

5 MS INNES: Yes -- I know I didn't frame the question very
6 well, so it is my fault. I was asking really in terms
7 of dealing with case where an allegation is made and
8 it's not substantiated, and by that I mean it's not
9 proved that the abuse happened, and it's perhaps
10 inconclusive. It's not the other way, that the abuse
11 never happened, that the outcome of the investigation is
12 inconclusive, and you've obviously referred to in the
13 police setting, sometimes the police say there's not
14 enough evidence to go to court in relation to this, and
15 you mention that in relation to this specific case as
16 having been an issue.

17 A. Yes.

18 Q. How does that then impact on -- you know, obviously
19 we're interested in the impact on the child, of having
20 made an allegation, the whole process is gone through
21 and the outcome is inconclusive.

22 First of all, how does it impact on the child?

23 Then, secondly, how does it impact on social work
24 practice?

25 A. I think when an allegation is made, something has

1 triggered that allegation, and I think it's then really
2 important to look at that and be open to --
3 an allegation might be saying X, but it might not be
4 that, it might be something else, but something has been
5 triggered by it.

6 And that's the -- the child's voice is really
7 important. Working -- you want to look into what the
8 allegation is, what it refers to, et cetera, make sense
9 of that and also make sense of that with the foster
10 carers as well, to get their understanding.

11 Again, some of this might go back to your earlier
12 question which related to the need for greater training
13 in particular areas. You know, for some of our young
14 children who were and are presenting as really quite
15 traumatised, so there's a bit with foster carers where
16 we need to train them, get them on board to deal with
17 those situations appropriately.

18 In all of those, I think there's probably two roles.

19 One is to hear and understand what's going on.

20 But then it's to look at how best to then resolve
21 that matter. And speaking to the young person is really
22 critical to that, because not -- it might be that the --
23 the child may need to be removed from that circumstance,
24 but in other cases the child wants to remain there, so
25 it's how can we have the child stay there safely, but

1 also to build the relationship between themselves and
2 the foster carer.

3 Q. Okay.

4 Can we move on to the next page, please, and
5 acknowledgement of systemic failures. The question here
6 is, at (a):

7 "Does the Local Authority accept that its systems
8 failed to protect children in foster care between 1930
9 and 17 December 2014 from abuse?"

10 So does the Local Authority accept that any of its
11 systems failed to protect children from abuse?

12 A. In relation to did the systems fail, I would say no. In
13 the sense of the totality, because I think there's been
14 a significant number of children who have had very happy
15 and successful placements with foster carers.

16 As it says there, when we start looking into this in
17 more detail, there is procedures, policies, practice,
18 et cetera, that can be improved, and throughout the
19 whole period I think you can actually see that, how --
20 the things that have been done to improve that.

21 But as a system as a whole, I would say no, but
22 there has been some failings within the system.

23 LADY SMITH: I don't want to get bogged down in semantics,
24 and this is an issue which interests me, as you can
25 appreciate, Fiona. It's one thing to say, no, the

1 systems didn't fail because the systems we had in place
2 were targeted at child protection and we did what our
3 processes required us to do. However, if in
4 a particular case -- take Thomas Lane, for example, and
5 you've just seen that series of charges, which are very
6 disturbing. Take that for example. In that case, even
7 allowing for the fact the apparently right systems might
8 have been there, they didn't protect that child.

9 So if you ask did the systems, whatever they were,
10 fail to protect a child? The answer has to be yes,
11 doesn't it?

12 A. But for me it's part of -- there's so many different
13 bits within that. Will we ever -- and I know that might
14 be a different question. Will we ever eradicate abuse
15 from our society? The answer's no, unfortunately, we
16 won't. We can try to always alleviate abuse and
17 alleviate harm, but we work in society with people, and
18 there's people that are very astute at what they do and
19 will cause damage to other people. It's how do we
20 manage that as safely as we possibly can?

21 LADY SMITH: Finally to explain, Fiona, I'm not posing these
22 questions by way of trying to blame the Council for what
23 happened or criticise them --

24 A. Not at all.

25 LADY SMITH: -- but from a wider perspective, I just wonder

1 whether there are times that we have to accept we'd
2 worked hard at putting in place what seemed to be the
3 best systems. A child was still damaged, a child was
4 still abused. I wonder whether we need to review our
5 systems and look again, whether they need to be
6 redesigned. Isn't that what a healthy organisation has
7 to keep doing?

8 A. Always, yes.

9 LADY SMITH: Thank you.

10 Ms Innes.

11 MS INNES: Yes, so in relation to, for example, the most
12 recent conviction that you're aware of, you outlined in
13 your evidence earlier that the Council were looking at
14 that to some degree, although obviously as you said,
15 guilt was only established in December 2021, and I don't
16 know whether it's something that you intend to continue
17 to review or look at further in relation to that
18 specific case or not?

19 A. I think in all of them, you constantly look at what
20 lessons can you learn from that, what can help inform
21 practice, et cetera, what gives you a more critical eye
22 as you're moving forward, so that will never stop. It
23 might be with that case, it might be something else
24 happens at a later date that you then start -- you might
25 raise it again to start looking at does the two inform

1 improvements within the service, so that's always there.

2 LADY SMITH: Fiona, that conviction was in December and

3 we're now almost five months down the line.

4 A. Yes.

5 LADY SMITH: Since the conviction itself, which will have

6 told you what the individual was convicted of and what

7 was said about what happened at the time, because the

8 prosecutor will have given a statement to the court and

9 indeed matters may have come out otherwise before the

10 court --

11 A. Yes.

12 LADY SMITH: -- what has the Council actually done since

13 then?

14 A. The manager of the service has been looking at that, but

15 the question probably being raised is whether there's

16 more -- for example, the child protection committee have

17 a role in something like this as well. Because I think

18 just going through what we've done is I think sometimes

19 the child protection committee, they are very -- you

20 know, in terms of their learning and reviews, et cetera,

21 could actually do a really significant piece of work on

22 that, so that might be something to take back.

23 LADY SMITH: Have they had this put before them yet?

24 A. They are aware of, yes.

25 LADY SMITH: Have they had it put before them formally as

1 something they need to address?

2 A. Well, they are dealing with something just now, which
3 they are formally doing, and that is in terms of
4 practice and learning, but I will do.

5 LADY SMITH: Thank you.

6 Ms Innes.

7 MS INNES: Just to stay with that case, I'm interested in
8 the extent to which information is shared with you by,
9 for example, the police and the Crown. Obviously you
10 have social work records so you have your own material
11 on that. But to what extent do you get -- are you told
12 that there's a conviction?

13 A. Yes.

14 Q. Are you given information about what comes out at trial,
15 for example?

16 A. No, we have to pursue that.

17 And in relation to this case, he was convicted in --
18 sorry, because he lived in England, the reports,
19 et cetera, were done in England, so we don't
20 automatically have access to them. So it's highlighted
21 that.

22 Q. Yes, so sometimes if the offender was in your own Local
23 Authority, then the criminal justice services would have
24 become involved potentially?

25 A. Yes, and they would have been linking immediately in

1 with the children's service about that, so that makes it
2 slightly more robust, I would say.

3 Yes, so there's formal and informal processes, you
4 know, and part of them will be about relationships with
5 the police and they're constantly being discussed. For
6 example, this was in relation to a conviction, but one
7 of the things we're talking to the police about just now
8 is there's a significant delay with if allegations are
9 given to the police to pursue, between that and
10 outcomes.

11 Now that then leaves the young person and foster
12 carers in a no man's land, really, so we have at the
13 moment which is two years down the line.

14 Q. Okay.

15 A. All of those put together is how do we ensure the
16 information is shared formally, but also so that we're
17 working alongside each other? Joint investigations, we
18 know exactly where we are and that also helps trigger
19 dates, future dates for when court cases are, et cetera,
20 et cetera, so they become easier to monitor and ensure
21 that we're aware of when things are going to happen.

22 Q. If somebody were to come and make an allegation or
23 report a matter to the police perhaps later, the police
24 might come to you and ask for the social work file and
25 perhaps ask for assistance in finding witnesses, but

1 other than that, would you have any insight into the
2 process of that investigation and then any subsequent
3 prosecution?

4 A. Depending on the investigation, the police can contact
5 us for information and can say, "Unfortunately we can't
6 give you information", depending on the nature of the
7 allegation. We will always ask for information though
8 at that point, just to ensure that there's not risk
9 elsewhere. We don't -- that's not always forthcoming,
10 so that's actually a -- probably an information legal
11 process with the police that's -- that we will continue
12 to have discussions about.

13 I think it is a fine line between what they can tell
14 us and what they can't tell us with an active
15 investigation, and if they think disclosing will
16 interfere in that investigation, they won't give it.

17 Q. If an allegation was made against somebody who is
18 a current foster carer, is that something that the
19 police would --

20 A. I would certainly hope they would give us that
21 information, yes.

22 Q. Is there a formal process for that, do you know?

23 A. No.

24 Q. Sorry, do you not know or is there no formal process?

25 A. For them notifying us?

1 Q. Yes.

2 A. They will notify the teams in the area that that
3 happens.

4 Q. Thank you, that's helpful.

5 Finally in relation to your Part B on page 71,
6 you're asked here:

7 "Does the Local Authority accept that there were any
8 failures and/or deficiencies in its response to abuse
9 and allegations of abuse?"

10 The answer provided there is:

11 "It appears that the Local Authority and other
12 agencies worked within the law and processes of the time
13 and did endeavour to protect children to the best of
14 their ability. While there are gaps in us being able to
15 locate any copies of old policy and procedures from
16 certain times, it can be seen from files that they did
17 exist and were being implemented by practitioners and
18 the Local Authority itself."

19 Is that statement based on the case file review, do
20 you know?

21 A. Yes.

22 Q. Then at (b):

23 "What is the Local Authority's assessment of the
24 extent of any such failures in its response?"

25 It's said:

1 "It is clear that practitioners generally worked to
2 promote the welfare of children and young people."

3 I'm interested in the use of the word "generally"
4 and not "always" there.

5 A. Well, I think again -- and this is where
6 review/supervision and supervision of the worker is
7 really important, because we can have policies,
8 practice, procedures in place, we can train staff, but
9 we have to then make sure that they are acted on and
10 implemented.

11 100 per cent are they always acted on? No, I can't
12 say that they are, so that's where the "generally" will
13 come in, but that is one which we will actively pursue
14 via supervision, et cetera, but also through doing
15 briefings, updates, et cetera, and really sort of
16 feeding back to staff the importance of why we're doing
17 things and in the context, if somebody doesn't do
18 something, what the potential implications can be.

19 Q. It's also said there:

20 "It would be reasonable to acknowledge the
21 challenges of managing without the development of robust
22 assessment and scrutiny which has been implemented with
23 the creation of Councils and national legislation and
24 guidance."

25 I think that's what you're referring to there.

1 A. Yes.

2 Q. So increased guidance and scrutiny.

3 LADY SMITH: Is that really the same thing as saying it's
4 easier to get your act together if you're getting pushed
5 by an outside force such as a new Council structure or
6 new legislation?

7 A. I think it helps you focus on what you're trying to
8 achieve and why. And I think it really emphasises the
9 scrutiny side of things and why it's very relevant and
10 necessary.

11 LADY SMITH: Thank you.

12 MS INNES: Thank you, Fiona.

13 I think you've indicated that there are perhaps
14 a couple of areas that the Inquiry might come back to
15 you on --

16 A. Yes.

17 MS INNES: -- and you might be able to provide us with more
18 information.

19 I know that Highland Council don't have leave to
20 appear in this case study --

21 A. That's correct.

22 MS INNES: -- but thank you for the offer to provide us with
23 further information in response to any further material
24 that the Inquiry might ingather.

25 LADY SMITH: Fiona, that completes the questions we have for

1 you this morning, at which I'm sure you breathe a huge
2 sigh of relief.

3 A. Thank you.

4 LADY SMITH: Thank you for bearing with us and handling the
5 evidence that we've been gathering from you in relation
6 to a period that was not your period in office at this
7 Council. Please be assured I'm well aware of that.

8 A. Thank you.

9 LADY SMITH: That you've had to take the baton and deal with
10 it. I'm grateful to you for doing so.

11 Also, I know some of the questions I've asked you in
12 particular have been quite searching. I hope you'll
13 forgive me, but my interest, as is yours, is trying to
14 do the best we can for children today --

15 A. Yes.

16 LADY SMITH: -- and tomorrow and in future years.

17 I'm now able to let you go, and I hope, it being
18 Friday, that you can have a quiet afternoon. Thank you
19 very much.

20 A. Thank you.

21 (The witness withdrew)

22 LADY SMITH: Ms Innes.

23 MS INNES: My Lady, we have evidence this afternoon from
24 Scott Hunter of North Ayrshire Council.

25 LADY SMITH: That's at 2 o'clock.

1 I'll rise now and sit again at 2 o'clock.

2 (12.45 pm)

3 (The luncheon adjournment)

4 (2.00 pm)

5 LADY SMITH: Good afternoon.

6 This afternoon we turn to North Ayrshire Council and
7 you have a witness ready, is that right, Ms Innes?

8 MS INNES: Yes, we do. Scott Hunter, who is the Chief
9 Social Work Officer.

10 LADY SMITH: Thank you.

11 Mr Scott Hunter (sworn)

12 LADY SMITH: Yes, it's important that we hear you through
13 the sound system, if you can be aware of that. How
14 would you like me to address you? I'm happy to call you
15 Mr Hunter or Scott, whatever you would like?

16 A. Scott is fine, my Lady.

17 LADY SMITH: Thank you for that. You have a hard copy of
18 your Council's response to us in front of you. You'll
19 also see parts of it coming up on screen as we take you
20 to them and maybe some other documents as well, which
21 I hope will be helpful for you, but you don't have to
22 look at them, whatever works for you --

23 A. No problem.

24 LADY SMITH: -- is fine by me.

25 If you're still giving evidence in an hour or so, as

1 I expect you might, we'll take a short break then, but
2 if you need a break at any other time, please do let me
3 know or if you have any other questions or concerns,
4 just say.

5 A. Sure.

6 LADY SMITH: Don't sit there silently and not feel you can
7 speak up.

8 A. Thank you very much.

9 LADY SMITH: If you have no questions for me at the moment,
10 I'll hand over to Ms Innes and she'll take it from
11 there. Is that all right?

12 A. That's fine, thank you.

13 LADY SMITH: Ms Innes.

14 MS INNES: Thank you, my Lady.

15 Questions from Ms Innes

16 MS INNES: Scott, we understand that you are currently Chief
17 Social Work Officer at North Ayrshire Council?

18 A. That's correct.

19 Q. You've been in that position since December 2021?

20 A. Correct.

21 Q. So relatively recently?

22 A. Yes.

23 Q. You've helpfully provided a career history and CV to the
24 Inquiry, and from that I think we can see that you
25 started your career as a social worker in 2000 I think

1 with children and families in the City of Edinburgh?

2 A. Correct, yes.

3 Q. You've moved through various management roles since

4 then. I think you were appointed a service manager with

5 Abelour Trust in February 2003, and from then on, you

6 appear to have worked in various management roles, is

7 that fair?

8 A. That's correct.

9 Q. Then in August 2017, you became head of children and

10 families and criminal justice and Chief Social Work

11 Officer with Orkney Islands Council?

12 A. That's correct, yes.

13 Q. From there you moved to South Ayrshire Council as a CSWO

14 and now North Ayrshire?

15 A. Correct, yes.

16 Q. Your background appears to be primarily in the area of

17 children and families; is that correct?

18 A. That's correct.

19 Q. We understand that you weren't obviously at North

20 Ayrshire Council at the time that the Local Authority

21 prepared its response to the section 21 notice from the

22 Inquiry in respect of foster care, but I assume that you

23 had knowledge of the process from the other work that

24 you were doing at the time?

25 A. That's correct, yes.

1 Q. I understand that since joining North Ayrshire Council
2 and dealing with requests from the Inquiry, you take
3 responsibility now for the A-D response and you're able
4 to speak to it?

5 A. Absolutely, yes.

6 Q. I think you've familiarised yourself with it and I think
7 maybe spoken to colleagues who were involved in its
8 preparation?

9 A. Yes, absolutely.

10 Q. Thank you. Could we look, please, at NAC-000000028.
11 I think this is the response from North Ayrshire
12 Council. If we go on to page 2, and under the heading
13 "Methodology", if we scroll down a little, we see
14 a paragraph there:

15 "Following a period of preparation, a team of social
16 work professionals were seconded to carry out the
17 significant review and analysis work considered
18 necessary to inform this response."

19 The document sets out there the various people who
20 were involved in the team at the time. Have you had
21 an opportunity to speak to some members of that team in
22 preparation for giving evidence?

23 A. I have, yes, and if it would help I can give some detail
24 on work prior to that in terms of North Ayrshire's
25 preparation in terms of acknowledging the seriousness of

1 the notice. There was a working group established, that
2 was overseen by David MacRitchie, the Chief Social Work
3 Officer at the time, which included colleagues from
4 legal, professional representation and information
5 governance, for example, and that kind of provided
6 a clear steer on the work that was required and ensured
7 there was governance of what was being done and that it
8 was appropriately resourced.

9 Q. Was that before the preparation of this notice or was it
10 before this notice was received, when the Inquiry was
11 set up and began ingathering evidence or was it in
12 respect of the foster care case study?

13 A. Yes, in respect of the section 21 response.

14 Q. Okay, thank you.

15 A. And then obviously subsequent to that, as you can
16 imagine, the social work community within Ayrshire is
17 kind of quite small in some regards, so what assisted
18 North Ayrshire was kind of initial conversations with
19 colleagues in East Ayrshire in terms of the development
20 of the kind of subsequent templates that were used and
21 the audit facility.

22 LADY SMITH: Scott, I am losing what you're saying sometimes
23 as you turn away from the microphone.

24 A. Sorry.

25 LADY SMITH: You can move that microphone a bit.

1 A. If that helps.

2 LADY SMITH: You can move the arm, it will bend up and down,
3 so that we can all hear what you have to say.

4 A. Sure.

5 LADY SMITH: Every word matters.

6 A. It does indeed.

7 LADY SMITH: Thank you.

8 A. So I was just referring to the work with East Ayrshire
9 and obviously once North Ayrshire was involved in that
10 activity, we shared that subsequently with colleagues in
11 South Ayrshire. So there's been a collegiate approach
12 in some respects to ensuring the Inquiry was furnished
13 with the best possible evidence.

14 LADY SMITH: Thank you.

15 MS INNES: So the three Ayrshire Councils, essentially there
16 was some co-operation between all three of them in terms
17 of how you were going to approach the notice, given your
18 shared history, I suppose?

19 A. Sure.

20 Q. We were looking at the team that was put in place there
21 in North Ayrshire, and then the methodology goes on to
22 look at the file review that was carried out and it says
23 there:

24 "All available foster carer files from April 1996
25 until August 2019 have been reviewed."

1 Perhaps if we just pause there, obviously we know
2 that the Council has changed over the period that the
3 Inquiry is looking at. So there was an earlier period,
4 1930 up to 1975, when there were various councils or Ayr
5 County Council, I think?

6 A. Yes.

7 Q. Then there was the Strathclyde Regional Council period?

8 A. (Witness nodded)

9 Q. And then there was the North Ayrshire period.

10 A. (Witness nodded)

11 Q. In its response to the section 21 notice, to what extent
12 have North Ayrshire looked or been able to look at prior
13 to 1996?

14 A. So in terms of -- I'm aware of contact with colleagues
15 that were responsible for the Strathclyde response.
16 I know there was also subsequent work in relation to
17 understanding the boundaries that existed. So, for
18 example, Arran was also previously part of Bute Council,
19 I believe, so I think we can evidence that North
20 Ayrshire's made every attempt to connect with those
21 people that held the relevant files for children in
22 North Ayrshire.

23 Q. When you say the people that did the Strathclyde
24 response, that's Glasgow City Council?

25 A. Yes.

1 Q. You were aware that they were providing information to
2 the Inquiry about the Strathclyde period?

3 A. Yes.

4 Q. And you've mentioned that Arran at some point fell
5 perhaps within Ayr, was that in the 1930 to 1975?

6 A. So it was Bute Council, I believe, which then became
7 part of Argyll and Bute.

8 LADY SMITH: Scott, I'm losing you. If you can keep your
9 voice up as well, then the microphone will pick you up.

10 A. Sure.

11 LADY SMITH: Thank you.

12 MS INNES: So Bute Council's obviously become part of Argyll
13 and Bute --

14 A. Correct.

15 Q. -- and you also discussed with colleagues there to make
16 sure that they were covering that period?

17 A. Yes.

18 Q. If we look back to the file review:

19 "All available foster carer files from April 1996
20 until August 2019 have been reviewed."

21 It says that there were 201 files for that period,
22 93 relating to foster carers active during the period
23 but no longer, and 108 that related to current North
24 Ayrshire Council foster carers. So some of them were
25 essentially closed files and some of them were open

1 files?

2 A. Correct.

3 Q. Then the next paragraph says:

4 "All relevant children's files ('relevant' being
5 those identified as of further interest following the
6 review of foster carer files) from 1996 to May 2020 have
7 been reviewed."

8 Can you explain, please, when it says "relevant" and
9 "identified as of further interest", what was of further
10 interest?

11 A. Sure. So in terms of the methodology, I have made
12 reference previously to the template that was used, so
13 the template kind of very much focused on some
14 procedural matters in terms of ensuring all checks were
15 in place. It kind of asked questions around have the
16 child's views been expressed and recorded? And it also
17 kind of sought to establish if there had been any
18 concerns expressed within the period of that foster
19 care. If there were concerns that were highlighted
20 within the review of the foster carer, any allegations
21 or concerns, those led to the then review of the
22 children's files.

23 So anything within a foster carer file that had
24 a concern or an allegation or a complaint was reviewed
25 by North Ayrshire.

1 Q. Would you have read all of the files of children who
2 were placed with that foster carer or only the file in
3 respect of the child where there was a concern?

4 A. All the children in that placement.

5 Q. Okay. Over the entire time of that person's fostering
6 career?

7 A. Correct.

8 Q. Okay. So you've mentioned a couple of times the
9 template and I'm sorry, I should have --

10 A. No, it's okay.

11 Q. -- asked you to explain that a little bit more. You
12 have said that there were questions in it, for example:
13 were children's views taken? Another example you gave
14 was: was there an allegation? So you'll know that the
15 section 21 notice has different parts, and one part is
16 asking for numbers of complaints and allegations, and
17 another part asks whether policy was adhered to in
18 practice.

19 Was the file reading directed at both of those parts
20 or just one of them?

21 A. Could you ask that again?

22 Q. Yes, sorry, I didn't put it very well.

23 The file reading, was it directed at identifying
24 where there were allegations and numbers of allegations?

25 A. So the review of foster carers was subject to the

1 template, so that's kind of what informed what the
2 review was looking for. So obviously the key aspect of
3 the template was to ascertain if there were any concerns
4 about that foster carer that would then lead to further
5 review of children involved. So it has at its heart the
6 welfare of children, but also a clarity in terms of
7 identifying where concerns or complaints were raised.

8 Q. So there was that aspect about identifying complaints
9 and concerns, but you also mentioned you were asking
10 questions about were the views of children taken, for
11 example?

12 A. Yes.

13 Q. That sounds like you might have used that to feed into
14 questions in the section 21 notice about, for example,
15 did the Council adhere to its policy in terms of taking
16 the views of children?

17 A. Yes. Sorry, I understand what you're asking.

18 Q. Yes -- it's my fault, it's not yours.

19 A. No, no.

20 Q. So you used it for --

21 A. Yeah.

22 Q. -- all of those different things in the notice? Thank
23 you.

24 So children's files were read and then we go on,
25 I think it says 407 files were reviewed, 299 that relate

1 to children placed or born after 1996, three that relate
2 to children placed pre-1996 who remained in placement in
3 April 1996 and 105 that related to children where
4 a specific placement time frame couldn't be confirmed.

5 A. (Witness nodded)

6 Q. Can you explain why the time frame couldn't be
7 confirmed?

8 A. I'd speculate. I'd rather give you a correct answer and
9 come back to you, if that's okay?

10 Q. That's fine, thank you.

11 Paragraph 3 it then goes on to say:

12 "All available files for children placed by the
13 North Ayrshire Council in a foster placement with foster
14 carers from another Local Authority or with foster
15 carers engaged by an external agency from April 1996
16 until May 2020 have been reviewed."

17 So 147 files were reviewed in relation to children
18 born or believed to have been so placed after 1996.

19 It's noted:

20 "The records that relate to the foster carers
21 themselves are not held by North Ayrshire Council and
22 have not been reviewed."

23 It appears that a separate group of children's files
24 were read and these were children who had been placed
25 with carers either from another organisation or another

1 Local Authority; is that right?

2 A. Yes.

3 Q. Then it says that the file reading took place I think
4 and I assume there was a team of file readers completing
5 the template that you talked about?

6 A. Yes, that's that group of staff that you mentioned at
7 the start.

8 Q. Okay. Then at number 5 it says:

9 "Key information held in child and foster carer
10 files and other available sources has been triangulated
11 where possible."

12 What does that mean?

13 A. That would be the process whereby we would check
14 concerns that were contained in the files with other
15 available evidence. So that might be review reports or
16 minutes or Children's Hearing reports, just to ascertain
17 the accuracy of what has been recorded.

18 Q. Okay. Then it says at 6:

19 "Despite this due diligence, it is recognised that
20 some records are incomplete. In circumstances where
21 an allegation of abuse has been identified from file
22 review but the details of the complaint are incomplete,
23 it has nonetheless been included in the response to the
24 section 21 notice."

25 Can you explain a little bit about why records were

1 incomplete or what's meant by that?

2 A. I think it's fair to say that we've all learned a lot,
3 again as we do a look back in terms of what we
4 understand as custom and practice today and we're far
5 removed from what custom and practice was in the terms
6 of even going back to the late 1990s, for example, which
7 probably still feels, you know, relatively close if
8 you're of a certain age in that regard.

9 I think the social work profession kind of continues
10 to learn and develop in its practice around a lot of
11 these issues, given that the records are the child's
12 life story and clearly when people come back to see the
13 case files, those need to be as complete as possible for
14 them to make sense.

15 So by way of a preamble, that acknowledges that
16 things were incomplete, like I think just the practices
17 and the fact that the ability to locate some case files
18 during the period of this section 21 notice was hindered
19 by Covid as well. I know that the archives, for
20 example, were closed in some places so that stopped us
21 getting access there.

22 So the incompleteness relates to probably practice of
23 its time rather than any other omission.

24 Q. Okay. Then you note in the section below the
25 predecessor authorities and you refer for 1930 to 1975

1 to the South Ayrshire Council relative to Ayr County
2 Council, and you say:

3 "Relevant files held by the North Ayrshire Council
4 that relate to the period have been reviewed and
5 informed the preparation of this response."

6 Then I think you go on to refer to the Glasgow City
7 Council response as well.

8 A. Sure.

9 Q. At the end of paragraph 9, which goes on to page 4, it
10 says:

11 "All fostering panel minutes held by the North
12 Ayrshire Council that relate to the period have also
13 been reviewed to inform the response."

14 Do you know if minutes were held for the whole of
15 the period from 1996 to 2014?

16 A. As I understand it, there were not a complete set of
17 minutes, but for those minutes that there were, those
18 were reviewed, particularly with reference to
19 understanding the de-registration process that was in
20 place.

21 Q. Okay, so the panel minutes would, I assume, contain
22 details of any foster carer that had been reviewed at
23 the panel -- well, approval of foster carers --

24 A. Correct, yes.

25 Q. -- review of foster carers and de-registration of foster

1 carers?

2 A. Correct, yes.

3 Q. Then I think you provide some further detail to help us
4 understand the response, that when you're talking about
5 the past, it's 1996 to 2014?

6 A. Sure.

7 Q. Then if we look at the general points, it says in
8 paragraph 11:

9 "It has not been possible to ascertain total numbers
10 of children within foster care during the relevant
11 period, including between April 1996 and December 2014
12 to allow for greater contextual analysis."

13 I think that when we come on to -- well, when we see
14 the numbers that you were able to provide, they are from
15 2006 only, which I think is the time that the Council
16 started providing annual numbers to the Care
17 Inspectorate?

18 A. That's right.

19 Q. Do you know why it was that the Council didn't have
20 numbers for the 1996 to 2006 period?

21 A. No, I'd have to get back to you on that question.

22 Q. Okay. It's just that it seems fairly recent and I'm not
23 entirely clear why.

24 A. No, and I think I kind of was making that point
25 previously. What seems fairly recent in terms of what

1 we would expect in terms of practice and recording, and
2 indeed, you know, our storage of records would be
3 different to what they are today.

4 Q. Yes. Thank you.

5 Then at paragraph 12 there's reference there to the
6 definition of abuse that was in the section 21 notice
7 and you say:

8 "Having sought further advice from solicitors for
9 the Inquiry as to whether complaints of emotional abuse
10 in isolation should be included in the authority's
11 response, they have been included at section 5.1 ..."

12 And within an appendix that you have provided,
13 appendix 1.

14 However, it's said:

15 "When analysing the extent of abuse elsewhere in the
16 response (including at Parts B and D), North Ayrshire
17 Council has analysed abuse and alleged abuse that it
18 considers meets the Inquiry's principal definition."

19 Can you explain what that means?

20 A. I would read that to understand that given the
21 seriousness of the notice, that North Ayrshire felt it
22 important to ensure that all aspects of abuse were
23 contained within the response and that emotional abuse
24 is as pernicious and harmful as physical or other forms
25 of abuse. That would be my understanding of why that

1 took place.

2 Then obviously in terms of Parts B and D, the
3 Inquiry was quite clear about what it expected to be
4 reported on.

5 Q. Then at paragraph 13, it says there:

6 "When analysing the extent of abuse, particularly at
7 Part B, the North Ayrshire Council has not limited its
8 consideration to those cases where there was a criminal
9 conviction, civil finding or an admission that abuse had
10 taken place. This may have had the result, prima facie,
11 of artificially inflating numbers referred to in the
12 response. It was not the role of the Local Authority to
13 make a factual finding as to whether abuse (as defined)
14 occurred, but to respond to complaints and inappropriate
15 behaviours and take appropriate steps to safeguard
16 children in foster care."

17 Then it says:

18 "In consultation with the Chief Social Work Officer,
19 the review team analysed the specific complaints and
20 identified those cases where the action taken by the
21 Local Authority in response to the investigation of
22 an allegation of abuse indicated unacceptable behaviour
23 on the part of a foster carer. There is no single
24 factor that enabled all such cases to be identified;
25 this involved analysis of the Local Authority response,

1 an understanding as to the policy and procedural
2 framework at the time, and commentary within the files.
3 That exercise was carried out to assist with the context
4 and analysis required through this response. It should
5 not be assumed that a finding of abuse (as defined by
6 the Inquiry) was made in all such identified cases."

7 Can you explain what's meant by this preamble?

8 A. I think again I would interpret paragraph 13 as
9 an indication of the approach that North Ayrshire
10 Council's taken to the section 21 notice, and that is to
11 give voice to cases beyond where criminal convictions
12 have identified of abuse. We know ourselves in terms of
13 the number of people that subsequently get convicted
14 where there are allegations is relatively small, and
15 I think what the North Ayrshire return highlights is,
16 you know, we have had the numbers of cases that were
17 identified and I think we've only had one conviction,
18 for example, but a broad range of young people who have
19 made allegations and expressed concern about the level
20 of care they received and that is the duty that we all
21 face and carry out every day to ensure the well-being of
22 young people and to ensure their best interests are
23 looked after.

24 Q. We'll come back to your Part B in due course, but
25 I think in essence, you're saying you included

1 essentially where allegations had been made,
2 irrespective of whether there was a conviction or any
3 formal finding or proof.

4 A. Sure, allegations or complaints.

5 Q. Or complaints. Thank you.

6 If we can move into your Part A of your response,
7 I just want to ask you some questions arising from this.
8 If we can look, please, at page 28, at (d) here we have:

9 "Please provide details of any material changes in
10 numbers of children ..."

11 That's the context of the answer here.

12 What I wanted to ask you about is part of the
13 context that's given here and it says in the second
14 paragraph:

15 "In the Scottish Index of Multiple Deprivation 2009,
16 North Ayrshire was among the five Local Authorities with
17 the largest proportion of their data zones in the
18 15 per cent most deprived zones. The percentage of
19 children under 18 was 21.3 per cent compared to
20 a national average of 20.5 per cent. 29 per cent of
21 families were headed up by a single parent compared to
22 27 per cent in comparator authorities and 25 per cent in
23 Scotland as a whole."

24 LADY SMITH: That was having the largest proportion of their
25 data zones in the 15 per cent most deprived areas, and

1 that's 15 per cent most deprived in the UK or in
2 Scotland?

3 A. In Scotland.

4 LADY SMITH: In Scotland. Thank you.

5 MS INNES: It also notes in the next paragraph:

6 "North Ayrshire had particular challenges, such as
7 the high incidence of domestic abuse (that was taken
8 from the numbers of police referrals), substance misuse,
9 health-related issues and unemployment."

10 There's reference to the Scottish looked-after
11 children statistics in 2011, published in February 2012,
12 that showed that North Ayrshire had a greater percentage
13 of its 0-18 population looked after, at 2 out of 1,000
14 than the national average of 1.5. This trend is
15 reflected in the numbers of children accommodated, as
16 seen in the table above."

17 I think you go on elsewhere in your response to
18 indicate that the demographic and these issues that are
19 highlighted here, in particular deprivation, have had
20 a significant influence on the fostering service in
21 North Ayrshire. Are you able to explain a little bit
22 about that?

23 A. Sure. I think as you have kind of given an overview of
24 the North Ayrshire context there, the societal demands
25 that have come forward and in our lifetime in relation

1 to drug and alcohol misuse, for example, or even in our
2 kind of recent generation around kind of poverty and
3 child poverty. They, I think, have disproportionately
4 affected North Ayrshire, as borne out in the statistics.

5 You know, there are others that are better placed
6 than I to talk about the history of North Ayrshire in
7 terms of its population, but I do know that kind of, for
8 example, there are -- I attended a session on Monday for
9 newly elected members, there are only five employers in
10 North Ayrshire that employ more than 250 people, so it's
11 an area that's kind of affected by a number of
12 well-ingrained and established societal problems, of
13 which there have been many strategies to try and
14 strengthen communities.

15 LADY SMITH: Can I just pick up those stats again? You say
16 there are only five employers in North Ayrshire --

17 A. Yes.

18 LADY SMITH: -- for the employment of?

19 A. More than 250 people. And that stuck with me, because
20 I obviously heard it the first time.

21 LADY SMITH: Are you saying there are only five employers
22 that employ more than 250 people each?

23 A. As I understand it, that was --

24 LADY SMITH: You're not saying there are only five employers
25 in North Ayrshire?

1 A. Oh no, no, sorry.

2 LADY SMITH: It was the way you put it, it sounded that
3 blunt.

4 A. Apologies, apologies.

5 LADY SMITH: Okay, so if you're looking for big employers --

6 A. Yes.

7 LADY SMITH: -- let me put it that way, you can only count
8 five?

9 A. Yes. So in terms of the infrastructure of the local
10 economy.

11 LADY SMITH: Thank you.

12 A. So people are very much at the behest of smaller
13 employers, which can kind of be affected by the peaks
14 and troughs of the economy and that ultimately kind of
15 impacts then on children's well-being and on families'
16 abilities to kind of hold themselves together at points
17 of stress. And in terms of the fostering service's
18 ability to respond to that, again I know from
19 preparation for today's session North Ayrshire in 2010
20 had recognised a lot of those issues, had understand the
21 primacy of family-based care and had present to the
22 council a paper to invest heavily in its fostering
23 services to offer more children the chance to remain in
24 family-based care in North Ayrshire, which was supported
25 and then ultimately led to the further enhancement of

1 foster carers available in North Ayrshire.

2 I think it's fair to say -- sorry, I've got a bit
3 off track here. I think the interface between poverty
4 and deprivation and drug and alcohol misuse, as
5 an example, parental ill health or mental well-being,
6 the interface then between the state and family home
7 becomes really complex and then you need to have systems
8 and processes to allow families to engage meaningfully
9 with the families of those children that have been
10 looked after. So, again, that was very much part of the
11 focus of the work in North Ayrshire, to maintain family
12 contact and to rehabilitate wherever possible.

13 Q. I think you mentioned there a 2010 report. If we just
14 scroll down the page we're looking at, I think we see
15 reference to that?

16 A. Yes.

17 Q. It says there in the second-last paragraph on this page:

18 "In 2010, a report was considered by the executive
19 committee of North Ayrshire Council which outlined the
20 increasing need for foster placements in North Ayrshire
21 in order to improve the outcomes for children
22 accommodated by the authority."

23 Then it goes on to say:

24 "In response to this report, significant additional
25 funding was invested in the fostering service; the

1 objective of which was to increase the recruitment of
2 internal foster carers and correspondingly bring
3 improvements in the terms and conditions attached to
4 this role."

5 That sounds as though the Council were looking to
6 recruit more foster carers locally rather than perhaps
7 sending children out of area or to voluntary
8 organisations? Was that one of the aims?

9 A. That would be correct. I think it's fair to say that
10 that period in time was one where the general
11 infrastructure wasn't as strong as it is now and when
12 a child needs to be looked after, a child needs to be
13 looked after, so you end up having to seek care outwith
14 the authority area.

15 And I think it's well understood now that in terms
16 of generalisations, you know the further a child is
17 placed from their home, the more likely they are to
18 experience an abuse of their rights, for example, in
19 terms of -- I'm trying to find better language, but
20 I can't at this point. So the drive at that point in
21 terms of a lot of Local Authorities to ensure children
22 were looked after within their boundaries was very much
23 driven by the premise of keeping children in the local
24 communities, connected to the local schools, having
25 contact with their family and basically ensuring that

1 they were looked after locally.

2 Q. It says there in the paragraph:

3 "This aimed to improve outcomes for vulnerable
4 children who needed to be accommodated by providing more
5 placements in the local community [as you've said].
6 Further, it would also reduce the Local Authority's
7 dependence on the independent sector for purchased
8 placements and create substantial savings which could be
9 reinvested to develop local services."

10 So there seems to be a cost issue as well there.

11 A. Yes. I mean, you've seen my CV. I've kind of been
12 fortunate enough to spend time working for a large
13 provider of foster and residential childcare in Scotland
14 and I think my kind of experience would be that the
15 standard and the ambitions of that organisation were
16 very much the same as what I would describe as North
17 Ayrshire's ambitions. I do kind of get a bit
18 disappointed at times when people define the need to
19 seek placements as one based on cost. I know there's
20 a bigger debate around profit in childcare and that's
21 for people well beyond my pay grade to debate, but
22 I don't think you should draw a straight line between
23 a private provider providing less good care than a Local
24 Authority.

25 LADY SMITH: Scott, what's the source for this expression

1 "creating substantial savings"?

2 A. I would imagine that would be council reports, my Lady.

3 LADY SMITH: We're talking about reducing dependence on the
4 independent sector to provide placements.

5 A. If I can -- I think if you describe how much does
6 a placement cost, which I guess is what this would be
7 driving at, when you attach a pound and a pence and you
8 say it's costing, say -- pick a number -- £2,000 a week
9 for a child to live in an independent placement, and
10 then we pay our foster carers, say, £400 a week, for
11 example.

12 LADY SMITH: Ah, but that doesn't take account of all the
13 costs to you.

14 A. No, that's what I was about to say, your Ladyship, the
15 two things are -- they're apples and pears and you're
16 placing a value judgement on an incorrect number.

17 LADY SMITH: It's easy to say, but I wonder if that would
18 really bear the scrutiny that it requires.

19 A. Yes.

20 LADY SMITH: One of the things I have in mind, you've
21 probably looked at it, is the Competition and Markets
22 Authority review last autumn, and I don't think it was
23 actually finding a disparity, a significant disparity in
24 costs, as between using an independent provider and the
25 Local Authority having to bear all the costs, including

1 its own administration costs --

2 A. Correct.

3 LADY SMITH: -- of providing foster care. But that's
4 reassuring, you're not suggesting that that's to be
5 taken as gospel?

6 A. No, no, not at all.

7 LADY SMITH: Thank you.

8 Ms Innes.

9 MS INNES: Thank you, my Lady.

10 If we could just go over the page to page 29,
11 please, this continues:

12 "This heralded the implementation of a new
13 professional fostering scheme which emphasised the
14 training, support and development of foster carers.
15 A main aim of this scheme was also to target children
16 under 12 years of age who were living in residential
17 care and whose needs would be better met by foster
18 placements. This was in keeping with research which
19 showed that children under 12 years old need to be
20 accommodated, they were assisted to achieve better
21 outcomes if they were placed in foster care. It also
22 aligned closely with the objectives of the strategic
23 review of residential services and fostering services in
24 2006."

25 This is obviously asking about this report in 2010

1 and it says that the main aim of the scheme was to
2 target children under 12 who were living in residential
3 care. That seems quite late in terms of the trajectory
4 that we've heard from other evidence of changes where
5 fostering was to be the main care setting for children,
6 for younger children. One would have thought it would
7 have been recognised earlier than 2010?

8 A. Sure, and I guess you're asking there about the gap
9 there between 2006 and 2010. Apologies, I don't have
10 an answer for you in terms of what that delay may have
11 been due to, but I'm happy to go back and find out for
12 you.

13 LADY SMITH: Scott -- today is probably not the day to get
14 into this in depth -- it has also been said to me that
15 actually, when you're looking at that age group, over 12
16 years old, you have to be perhaps more cautious about
17 assuming foster care is the right way forward, because
18 they may still have links with birth family that they
19 value and resent the idea that they're being given
20 a substitute family. Some studies, I think, have shown
21 that they'll do better in institutional care, oddly.

22 A. My Lady, I appreciate your insight because I think there
23 are many a professional debate you could have around
24 I guess how the childcare systems evolved and, you know,
25 for example there has been research that talks in terms

1 of the generality of family-based care being the most
2 appropriate, and of course who is going to argue against
3 that, but there are always children, I think as you're
4 identifying, who can't manage the intimacy of
5 family-based care and who do need a different type of
6 environment.

7 Likewise, you know, experience would suggest there
8 would be children under 12 who also have such a high
9 level of complex needs that there may not be the
10 resources within a foster family to actually be able to
11 deal with that in terms of the energy and emotional
12 commitment, and when I'm talking about that, just to say
13 you can't have a binary choice that if you're under 12
14 you can't be in residential care and if you are over 12
15 you must be in foster care, because it's ultimately
16 about the needs of the young person that you need to be
17 making all decisions on.

18 LADY SMITH: Thank you.

19 Ms Innes.

20 MS INNES: Thank you.

21 If we can move on to the next page, please, Scott
22 and look at the numbers that the Local Authority were
23 able to find.

24 So 2006, to 2014. I think we see in 2006 there were
25 90 children in foster care and by 2014 there were 161 in

1 foster care. So that seems to have increased quite
2 significantly within that period. Do you know of any
3 reasons for that or not?

4 A. I think we could reflect on the emerging evidence at
5 that time around the impact of drug and alcohol misuse,
6 for example, in terms of raising awareness of the impact
7 of such environments on the development and well-being
8 of young people, and I think that period would also have
9 seen greater awareness in terms of child development,
10 the impact of poverty on the well-being of children, the
11 impact of exposure to secondary trauma. There's a whole
12 range of reasons why that trend line doesn't surprise
13 me, coupled with the demographics that you described
14 earlier.

15 LADY SMITH: We're seeing the trend not perhaps to the same
16 extent but it's there in total number of children
17 accommodated as well?

18 A. Yes.

19 LADY SMITH: Rising up to 212, rising steadily throughout
20 that period?

21 A. (Witness nodded)

22 MS INNES: I suppose in the final you also have the
23 residential care figures here. 68 in 2006 and 51 in
24 2014, so not too much of a difference there. It looks
25 like the majority of children that are being

1 accommodated are going into foster care.

2 A. And that would be driven by policy, which is
3 family-based care.

4 Q. Yes. Do you know how things have changed since 2014?
5 Has that trend continued or stabilised?

6 A. I can tell you -- obviously in terms of preparation for
7 today, it's kind of -- you know, it is what it is, but
8 it's sad to report that North Ayrshire has 176 children
9 in foster care today. If it's of interest, 370-odd in
10 kinship care.

11 Q. 370 in kinship care?

12 A. So those reflected the broader levels of the need that
13 exist within the communities in North Ayrshire and how
14 the Council, or the partnership rather, discharges its
15 duty to ensure the safety and well-being of young people
16 in its area.

17 Q. Can I ask you to look on to page 31 on the bottom of the
18 page at (a). You're being asked there:

19 "Do the children placed in foster care generally
20 have a shared background and/or shared experiences?"

21 There's reference there to the information gathered
22 from reading files. In general a shared history, common
23 experiences of trauma, abuse or neglect. Some of the
24 issues that you've already mentioned in your evidence,
25 exposure to parental alcohol and substance misuse,

1 sexual abuse, failure to thrive, physical abuse,
2 abandonment, mental health concerns, death or ill health
3 of primary carer and those children deemed to be outwith
4 parental control. It's said there:

5 "It is of note that these children were almost all
6 from a white Scottish background where English was their
7 first and only language."

8 I think later in the report when talking about the
9 current time, so in 2020 when this was submitted to us,
10 there's an indication that there's been increasing
11 diversity. I think if we look at page 36, towards the
12 bottom of the page, after (s). In the first paragraph
13 it says:

14 "While many children will have shared backgrounds
15 and experiences, ever-increasing numbers of children
16 have experienced exposure to parental substance misuse
17 and domestic abuse."

18 That seems to be a trend that has been identified.
19 It then says:

20 "In addition, children from more ethnically diverse
21 backgrounds have also been placed in foster care,
22 specifically unaccompanied asylum-seeking children,
23 children from the local travelling communities and
24 children of Romany heritage. As such, this increase in
25 ethnic diversity has also led to an increase in

1 diversity of religious affiliation."

2 Is that something that is a current issue,
3 an ongoing issue?

4 A. I think that's fair to say. As somebody that's kind of
5 spend the last three years working within Ayrshire, the
6 approach of North Ayrshire particularly in relation to
7 its abilities to express a welcome to families
8 experiencing significant disruptions in life, and it
9 obviously talks here about unaccompanied asylum-seeking
10 children, for example, and children of Romany heritage.

11 I think the Council as a whole has put in place
12 structures to allow it to meet the needs of those
13 youngsters particularly, which I think does it credit.
14 We've also spent time to ensure that services supporting
15 those youngsters are as flexible as they can be, and
16 again without adding further complexity, in terms of
17 particularly in relation to unaccompanied asylum-seeking
18 children, where those children tend to gravitate to can
19 often be outwith North Ayrshire, and then it's about
20 kind of ensuring close working with other authorities in
21 relation to the safe travel of those youngsters.

22 Q. Thank you.

23 LADY SMITH: When you refer there to "local travelling
24 communities", are these communities that generally move
25 within Ayr, Ayrshire, as opposed to away from Ayrshire

1 and then back to Ayrshire?

2 A. Yes.

3 LADY SMITH: I'm not sure I've seen specific noting of
4 travelling communities and children of Romany heritage
5 before. It looks quite significant. Can you give me
6 any feel for numbers?

7 A. Apologies, I can't, my Lady.

8 LADY SMITH: Don't worry. We can find out.

9 A. Yes.

10 LADY SMITH: Thank you.

11 MS INNES: Thank you, Scott.

12 If we can go back to page 26 and to the top of the
13 page, there's reference there to the specialist
14 fostering service that was introduced, which was called
15 Fostering First and Fostering Xtra schemes. It says
16 that led to increased recognition of the importance of
17 training. Fostering First carers had to complete four
18 days a year and Xtra carers six days a year, with
19 a focus on understanding why children presented with the
20 behaviour they did and promote a nurture-based approach
21 to care giving."

22 These two schemes, Fostering First and Fostering
23 Xtra, are these still schemes that are in place today?

24 A. They are.

25 Q. Can you explain what the Fostering First scheme is?

1 A. So both these schemes were drawn together to recognise
2 the increasing complexity of youngsters that were
3 needing to be looked after within the family context.
4 There was a focus on, for example, developing the
5 training for foster families and those schemes to ensure
6 they were better equipped to understand what children
7 and young people brought into their home and the reasons
8 for that and to ensure they had a range of strategies to
9 allow them to understand how to manage that with
10 sensitivity where they could.

11 So it was different ages. It was over 10s, then
12 over 12s.

13 Q. Were different fees paid for each or allowances made for
14 each service?

15 A. Yes. Apologies upon reflection in reading the response
16 I don't think it was terribly clear. So it was £200 per
17 child plus a £200 per carer, so an additional fee and
18 an additional allowance on top of the normal.

19 Q. Okay.

20 LADY SMITH: 200 for what period? 200 per month? 200 per
21 year?

22 A. Per week.

23 LADY SMITH: Per week?

24 A. Yes.

25 LADY SMITH: Thank you.

1 A. And there would also be a retainer to ensure those
2 carers would be available.

3 MS INNES: Okay, and how did that work?

4 A. In terms of the payment?

5 Q. The length of time for which -- was there a certain
6 period of weeks, for example, that it would be paid for
7 or was it just a one-off sum of money?

8 A. I would want to double check the accuracy, but my gut
9 says it would have been a weekly payment in terms of --
10 I can't imagine there would have been a long spell of
11 placements being vacant.

12 Q. Okay, thank you.

13 If we can move on, please, to page 48, here the
14 Local Authority is being asked about foster carer
15 practice and whether that adhered to the Local
16 Authority's culture, standards, policies, procedures.

17 At (e) there's a question saying if that didn't
18 happen all the time, give some examples as to why foster
19 carers didn't in material ways work in accordance with
20 the Local Authority's culture, policies, procedures, and
21 what was done to change that.

22 I think you say there:

23 " ... it is clear that not all foster carers
24 appropriately worked to agreed policies, procedures and
25 the Local Authority's culture of the time."

1 You gave some examples, I assume these all emanated
2 from the file reading?

3 A. Correct, yes.

4 Q. There are different examples from different periods of
5 time or times, so example 1 from 1987, an allegation
6 that a carer had smacked a child, it wasn't in keeping
7 with the culture and policy at the time, and the foster
8 carer was spoken to by the social worker and senior
9 social worker in relation to Strathclyde Regional
10 Council's then policy on corporal punishment.

11 I assume that emanated from file reading?

12 A. Yes.

13 Q. And then in example 3, from 2005, it says:

14 "Following allegations that carers subjected
15 children to physical chastisement, a full child
16 protection investigation was carried out in conjunction
17 with the police. This resulted in the female carer
18 being charged with three counts of assault. This was
19 not in keeping with the culture and ethos of the
20 fostering service and the behaviour of the carers was
21 not in keeping with the policy on physical chastisement.
22 The children were removed to alternative carers and the
23 carers were de-registered."

24 That seems to be quite a different response,
25 I suppose, to the one that you've noted from 1987, where

1 a carer had smacked a child and she was given advice.

2 Do you have any comment in relation to that?

3 A. I think clearly the examples give some illustration to
4 the situations that our young people find themselves in
5 that none of us would want to see. I think the
6 development in practice and the development in policies
7 and procedures between what you described in 1987 and
8 2010 would reflect wholesale change in understanding and
9 culture and policy within social work. You know, if you
10 go as far back as 2000, the child protection reform
11 maybe started to get into a broader understanding of how
12 the system should respond to children experiencing these
13 types of experiences.

14 I think it's fair to say by 2010 there was a clearer
15 focus on multi-agency work as a result of Getting It
16 Right for Every Child, for example, closer working with
17 police and health colleagues and generally a far more
18 robust response to concerns of abuse and neglect to
19 children.

20 I think we can also reflect that the period
21 post-2010 would have seen further significant
22 development of practice, but that period between 2010
23 and 1987 gives a clear sense of how the system responded
24 to children experiencing abuse and neglect.

25 Q. Can I just take you at this point to another matter,

1 which is linked, at page 126. Here, just above the part
2 in italics, we see reference to a review of the
3 Fostering Procedures in 2018 and reference to the
4 fostering handbook has been updated to reflect these
5 revised procedures. It says:

6 "In relation to discipline, the updated guidance
7 outlines the following ..."

8 Just to be clear, is the fostering handbook
9 something for foster carers --

10 A. Yes --

11 Q. -- or is it something for social workers?

12 A. -- it's given to foster carers.

13 Q. It's given to foster carers.

14 I think we can see there an excerpt of the handbook
15 in relation to discipline. The first paragraph refers
16 to:

17 "Previous experiences of abuse or neglect can impact
18 on the levels of trust a child has in adults caring for
19 them. This may lead to a sense of distance ..."

20 That seems to be explaining to the foster carer that
21 there might be reasons for a child's behaviour.

22 A. Correct, yes.

23 Q. Then if we scroll down a little, do we see:

24 "Positives must be openly acknowledged and
25 appreciated, identifying patterns when more problematic

1 behaviour emerges should help foster carers and children
2 recognise triggers which can then be discussed and
3 strategies adopted ..."

4 Then there's a suggestion about if there are
5 consequences, then they must be relevant, applied
6 immediately and not retrospectively, time limited,
7 always justifiable and used sparingly.

8 Then it goes on to say:

9 "The following are unacceptable consequences --"

10 Obviously physical chastisement, food deprivation,
11 also restrictions on contact, imposing fines, excessive
12 use of sending the child to bed early, as bedtime should
13 be a positive experience.

14 Then below the bullet points:

15 "The fostering service does not advocate withdrawing
16 a child or young person from attending pro-social
17 activities, for example Scouts."

18 Then it goes on from there.

19 Is that still the current handbook or has it been
20 further updated again?

21 A. Yeah, I think it's fair to say that the process of
22 further learning from the reception of the section 21
23 notice has led to a further review and updating of North
24 Ayrshire's policies and procedures, although these
25 principles remain the basis of good childcare in terms

1 of fostering care, so they remain within the handbook.

2 MS INNES: Would that be an appropriate moment to take
3 a break, my Lady?

4 LADY SMITH: I think so.

5 Does that work for you, Scott? We'll take a short
6 break now and then finish your evidence after the break.

7 Thank you.

8 (3.00 pm)

9 (A short break)

10 (3.10 pm)

11 LADY SMITH: Scott, are you ready for us to carry on?

12 A. Yes, please. Thank you.

13 LADY SMITH: Ms Innes.

14 MS INNES: Thank you, my Lady.

15 Scott, I'm just going to ask you to look at some
16 other aspects of your section 21 response, which refers
17 to different policies of the North Ayrshire Council
18 policies and procedures.

19 I think it says in your response that when North
20 Ayrshire started, it initially adopted the Strathclyde
21 Fostering Procedures, which I think had been -- I think
22 it says in your response that they were the ones from
23 1985, and then they were updated in 2007, and there's
24 reference in the document to the 2007 procedures.

25 I think they have been updated since then, you have

1 mentioned that --

2 A. Sure.

3 Q. -- as well. It's an ongoing process.

4 A. Very much so.

5 Q. Can I ask you to look at page 87. This is dealing with
6 information, I think, that's shared before a child is
7 placed. We see that there's reference to the
8 "Altogether Better Care" looked-after procedures 2013
9 and the Fostering Procedures 2007 provided information
10 relating to the placement of children with foster
11 carers.

12 I think these are both North Ayrshire documents; is
13 that right?

14 A. That's correct.

15 Q. It says:

16 "In the event that planned placements occurred,
17 staff were directed to ensure that all relevant
18 information relating to the child's day-to-day routines,
19 their education, health and other needs-led information
20 was gathered and shared with identified foster carers
21 with information on the foster carers also being shared
22 with the child."

23 Then in the next paragraph there's reference to:

24 "Every successfully approved foster carer was
25 required to produce a child friendly booklet that

1 introduced them and their family to the child and
2 contained information about the local area and
3 information about the household [and suchlike]."

4 Is that something that continues to happen in North
5 Ayrshire? Or, if not, how is information now shared?

6 A. No, I mean that's still very much the kind of bedrock of
7 good practice in terms of preparing a young child to
8 move to another family. An awareness of where they're
9 moving, what it looks like. It just helps to offer some
10 sort of indication and -- I wouldn't say assurance,
11 because you can only imagine what goes through a young
12 person's mind when they're becoming looked after, but
13 I think we will make every effort to make that as good
14 as it can be, and that sharing of information is a key
15 part.

16 Q. In the next paragraph on page 87 it's noted there:

17 "Where children are admitted to foster care in
18 emergency situations and in such circumstances where
19 there was no opportunity for planning introductions and
20 consideration of matching implications, the Local
21 Authority's procedures stipulated that the relevant
22 admission paper and legal status for the placement was
23 fully documented."

24 Then I think there's reference to a post-admission
25 meeting:

1 "... where relevant information regarding the
2 child's needs would be shared by relevant staff and
3 family members was also called within three working days
4 of the placement commencing ..."

5 Is that something that's still a practice or
6 procedure in North Ayrshire?

7 A. Yes.

8 Q. Because, as you say, it's not always possible to plan
9 a placement, so if it's an emergency situation you still
10 need to find a way of communicating key information to
11 the carers.

12 A. You do. And if it's okay to share, I think the most
13 important word that you mentioned there was in relation
14 to the process of matching. So if a child needs to be
15 looked after on an emergency basis, there's still
16 a professional task of matching to ensure there's a safe
17 match between the needs of the young people and the
18 ability for the family to meet those needs. That occurs
19 regardless of the timescales required and, you know, the
20 other safeguard that you described there in terms of the
21 post-admission meetings are driven to ensure that the
22 needs of the young person or the child are being met,
23 that they've settled okay and primarily is to hear their
24 views in terms of how they're experiencing their new
25 family.

1 Q. Thank you.

2 Then can I ask you to look on at another aspect on
3 page 105, please, at the bottom of this page. This is
4 to do with information sharing with the child's family.
5 It talks about sharing of information with a child's
6 family at formal meetings and contact sessions. It
7 says:

8 "Foster carers would usually be involved in
9 transporting children to and from birth family contact
10 sessions and as such would have handover contact with
11 the birth family."

12 Then it says:

13 "Foster carers maintained records in relation to the
14 child's development and progress, which they shared with
15 their supervising social worker, who in turn shared the
16 information with the child's allocated social worker."

17 Then on the next page at the top it says:

18 "Additionally, a communications diary was frequently
19 used between birth parents or extended family members to
20 share information about the child's progress and
21 development whilst they remained in foster care."

22 Again, is that something that's ongoing? Can you
23 explain a little bit more about this communications
24 diary?

25 A. I think it's probably fair to say, you can probably hear

1 me empathise a fair bit as we're talking today, to
2 imagine yourself as a parent who has lost -- and I use
3 that kind of term very carefully -- the child into
4 foster care, the anxiety that must come with not knowing
5 where the child is in some cases, what they're going
6 through, what their new routine is. It's fairly --
7 I can imagine it's harrowing in some regards.

8 So in that type of circumstance, again there's
9 a duty on all of us involved in the care of young people
10 to alleviate those anxieties where we can and the diary
11 and the communication between the carer and the birth
12 family is absolutely critical to that. In relation to
13 personal experience as a social worker, just knowing
14 what the birth family took from that weekly update while
15 they were obviously attending to the matters that they
16 had to attend to was invaluable in allowing them to feel
17 assured that the child was safe and being well looked
18 after, while they had done what they needed to do. So
19 communication between birth family and foster carers is
20 absolutely critical to good outcomes for young people
21 and children.

22 LADY SMITH: Are these diaries physical books that pass
23 between the foster parents and the birth family or what?

24 A. They were in my day, my Lady, I'd have to double check
25 in terms of current practice whether we use electronic

1 means now. Obviously Covid has had a huge impact on
2 a whole range of activity, but there remains that
3 communication between the foster family and the birth
4 family.

5 LADY SMITH: Thank you.

6 MS INNES: Then can I ask you, please, to look on to
7 page 144. In the bottom final paragraph on this page,
8 this is looking at review and supervision of the foster
9 carers. In the final paragraph it refers there to:

10 "The supervising social worker was required to carry
11 out formal supervision with the foster carer on
12 a monthly basis. This involved planning for each
13 subsequent visit to the foster carers and child,
14 covering subject matters such as how the child had
15 adapted to the foster home, the child's development, the
16 child's relationship with their carer and ensuring that
17 home visits completed. Also included other family
18 members being present."

19 It says:

20 "Reflective of the culture at that time, the
21 Fostering Procedures 2007 appear to have been focused on
22 females as the main carer and note that male carers
23 should also be included in visits and meetings ..."

24 As, I think, a specific provision.

25 It is noted:

1 "The 2007 Procedures continued to be in use
2 throughout the relevant time frame, however there were
3 unwritten procedural developments which reflected the
4 increased importance attached to the role of the male
5 carer and in later years, male carers and single-sex
6 carers were assessed as the main carer in their own
7 right."

8 Then there's reference to a report that would be
9 completed after the home visit.

10 Just dealing with the issue that's raised in the
11 response about the previous focus on the female carer
12 and how that's changed over time, are you able to tell
13 us a little about that?

14 A. I would surmise that the response here gives cognisance
15 to how society has kind of moved on in its understanding
16 of who are the best people to offer care to children and
17 young people. Obviously going back now a generation or
18 less in some regards, females were held to be the
19 primary caregiver and that was of its time. I think now
20 we understand that the ability to relate and empathise
21 and nurture can be best delivered through anybody,
22 anybody who can connect with a young person, anybody who
23 can connect and understand what's brought them into
24 their home and give them the space to kind of grow and
25 develop, regardless of your sex, your gender,

1 orientation. I think that's to be commended as
2 a positive development in terms of how we respond to the
3 needs of young people.

4 Q. It's also noted there that these supervision visits,
5 that I think in the 2007 Procedures it was perhaps
6 saying you shouldn't just see the female carer, you
7 should also I think maybe try to include the male carer
8 at that time. Has that changed?

9 A. Very much so in terms of I guess the context I was just
10 providing there, that we can all reflect on cases
11 where -- so while -- you know, if you take a traditional
12 approach, if you had a child in foster care and then the
13 male carer would primarily perhaps have been out working
14 full time and the female would be the primary caregiver,
15 what you would often find is that the contributions
16 offered by the male caregiver -- I kind of say this in
17 very specific way. So if you take young boys, for
18 example, or teenage boys, the activities that they got
19 up with in terms of having a positive male role model
20 were highly significant in achieving positive outcomes
21 for them.

22 So actually now that -- and I hate using the term,
23 but now that our system recognises those contributions
24 in a far more transparent way is a real strength and it
25 recognises that anybody and everybody within a family

1 context can contribute to good outcomes for young
2 people.

3 Q. I suppose in the example that you gave, there would be
4 potentially a risk that a social worker might hardly
5 ever see the male carer in that scenario or whichever
6 carer is not in the house at the time of the meeting.
7 Time could pass with the social worker only having
8 supervision with one of the carers.

9 A. Yes, and I think that's a very pertinent question,
10 particularly given the subject matter of the Inquiry and
11 the historical context in terms of hidden carers. So it
12 was very much dependent on -- well, I guess there's two
13 aspects.

14 One in terms of the supervising social worker and
15 their ability to engage with the whole fostering family.

16 And then if you reflect on the role of the placing
17 social worker, their ability to understand what care is
18 being delivered to the young person that they're
19 responsible for and have an oversight and understanding
20 of who was in the family home, when and what they were
21 doing to contribute.

22 Q. Can I ask you to move on to something else now, please,
23 and to Part D of your response, so page 212. Under the
24 first question, 5.1(a):

25 "What was the nature of abuse and/or alleged abuse

1 of children in foster care?"

2 From the methodology that you identified earlier,
3 118 allegations of abuse either by foster carers or
4 a family member of the foster carers were identified.
5 Then you've broken down the cases, so 80 cases of
6 physical abuse, 20 of emotional abuse -- I think that's
7 standalone emotional abuse -- 17 of sexual abuse and 1
8 uncategorised. I'm not sure what the one uncategorised
9 is.

10 A. I could provide clarity for you there.

11 Q. There's reference to:

12 "In addition, there are five complaints of alleged
13 sexual abuse of children carried out by other children
14 in foster care."

15 That you've noted.

16 If we go on to question 5.2(a) at the bottom of this
17 page, this is asking for the Local Authority's
18 assessment of the scale and extent of abuse of children
19 in foster care. You say:

20 "For the vast majority of children placed in foster
21 care by North Ayrshire Council, abuse did not occur and
22 there was no suggestion that it did."

23 Just pausing there, there was no suggestion that it
24 did. I'm assuming that you would accept that sometimes
25 abuse is not reported?

1 A. Absolutely.

2 Q. Yes. I think that was referenced in your legal
3 representative's opening statement to the Inquiry, that
4 the Council does accept that it's found these complaints
5 but it also accepts that there may be unreported cases?

6 A. Very much so.

7 Q. Then it says that there were 97 complaints of abuse
8 relating to physical or sexual abuse and then there's
9 reference to the various periods. I think here it
10 explains the uncategorised, I think:

11 "One complaint relating to the period 1975 to 1996
12 has not been categorised due to insufficient information
13 being available. However, this has been included within
14 this response for the purposes of transparency."

15 I think that explains that one.

16 A. (Witness nodded)

17 Q. Then you go on to say:

18 "One foster carer registered by the North Ayrshire
19 Council was convicted on 16 October 2017 of two
20 offences."

21 These were sexual offences.

22 Over the page it says:

23 "The first conviction related to the period 2001 to
24 2005 and the second to the period 2005 to 2006."

25 I think this is the conviction of William Rae, is

1 that correct?

2 A. Yes.

3 Q. Can we look at JUS-000000097.

4 I appreciate, Scott, that you've probably not seen
5 this document before. It's just so that we can put it
6 in context. I think we see here the conviction. It
7 goes on to, I think, page 3 and perhaps page 4 might be
8 the page that it confirms -- yes, at the top of page 4,
9 the jury by majority found the accused guilty as
10 libelled on certain charges.

11 At the beginning of the document, so page 1 again,
12 I think we can see the material of the charges. It goes
13 on to page 2 as well. Clearly there are a number of
14 charges there relating to sexual offences in respect of
15 various periods.

16 Before I ask you some further questions about this,
17 perhaps if we could look on to NAC-000000170, if we go
18 on to page 2, the Inquiry had asked some further
19 questions about this conviction. I just wanted you to
20 have your answer in front of you there, if we can scroll
21 down a little bit, please, for reference and we'll maybe
22 come to some aspects of it in a minute, but do you know
23 how the Council became aware of the conviction of
24 William Rae?

25 A. As a result of activity in relation to the section 21

1 notice.

2 Q. Okay.

3 A. So whilst we were reading the foster carer files, there
4 was an allegation or a complaint in relation to those
5 foster carers that the young lady subject to the
6 offences in this example was subject to, so that
7 triggered the file reading of that case and the
8 connection then to Mr Rae.

9 Q. Am I understanding it correctly, that the Council didn't
10 have information that William Rae had been convicted on
11 the foster carer's file?

12 A. No.

13 Q. Did you have that information from other sources or was
14 it because you looked at the file, you saw there was
15 an allegation and a police investigation, that you then
16 went and asked the police what had happened or --

17 A. When you read the young person's file, obviously it made
18 reference that they went to stay with Mr Rae, so then we
19 kind of read that and obviously knew the circumstances
20 subsequent to that, and I think obviously, as I'm sure
21 you'll move on to explore, the distinction between
22 Mr Rae as a link carer and a foster carer, so Mr Rae
23 wouldn't have been subject to the initial case-file
24 reading as per the section 21 notice, because he wasn't
25 a foster carer for North Ayrshire Council at the time.

1 Q. So you just came across this because in your case-file
2 review you happened to be reading the child's file?

3 A. Yes.

4 Q. I see.

5 That's how it came to light. As you have just said,
6 if we can scroll up, you say:

7 "By way of clarification, this conviction related to
8 a carer from the Local Authority's link carer scheme,
9 essentially a primitive kinship care arrangement
10 introduced by Strathclyde Regional Council. The parties
11 are various referred to as link carers, carers and
12 foster carers throughout the files, largely dependent on
13 the source of the information."

14 I think you just said that because of this status of
15 link carer, he wasn't in your foster carer records?

16 A. (Witness nodded)

17 So by way of the difference, a link carer would not
18 be subject to the full assessment that a foster carer
19 would, ie the Form F at the time. So there's
20 a difference.

21 LADY SMITH: Why not?

22 A. That was custom and practice at the time, my Lady.
23 There was no -- link carer schemes were new.

24 LADY SMITH: But for a period, the child would be fostered
25 by the link carer. Is that right?

1 A. Yes. And I think that's the reflections we've all done
2 about how practice has moved on. In relation to
3 professional debates at the time in terms of -- as
4 I think you're describing, the young person needs to be
5 looked after and has a set of needs and if you're
6 a foster carer, you go through a very full process that
7 looks at family history and a whole range of issues and
8 if you're going to be a link carer, it was very much
9 a very light-touch view of would the person be
10 appropriate. It reflects the culture of the time,
11 my Lady.

12 LADY SMITH: Can you remind me, Ms Innes, the charges
13 related to periods up to 2010, was it, on the
14 indictment?

15 MS INNES: Yes, I --

16 LADY SMITH: And the date of the conviction?

17 MS INNES: The date of conviction was 2017.

18 LADY SMITH: Yes.

19 MS INNES: I think the earliest charge was 2001 going up to
20 2015. So at various dates. There were some in 2010
21 and ...

22 LADY SMITH: That was seven charges, I think, wasn't it?

23 MS INNES: Yes.

24 LADY SMITH: One other question, Scott. Did this man remain
25 on the Council's books right through that period, right

1 up to 2017 and after 2017 until he was sentenced?

2 A. No. Once the young person left, he was no longer
3 a carer.

4 LADY SMITH: When was that?

5 A. I'd have to get the exact date for you, my Lady.

6 LADY SMITH: If we can have that date, please, in due
7 course.

8 MS INNES: If we can look at the next paragraph on page 2:

9 "By 2006 [you note] deficiencies in the link carer
10 scheme were acknowledged by the Local Authority and
11 a new kinship care scheme was introduced at that time.
12 Said change in practice ensured that more comprehensive
13 assessments and relevant regulatory checks were being
14 completed to make certain any kinship placements were
15 appropriate and suitable for children and young people.
16 In turn, the 2009 regulations placed greater duties and
17 responsibilities on the Local Authority in relation to
18 the assessment and checks of kinship carers, which
19 changed practice significantly within North Ayrshire
20 from that in 2007."

21 Am I right in understanding that if Mr Rae had
22 become a link carer through Strathclyde, and then he
23 transferred over to North Ayrshire in 1996, that because
24 his initial approval was like that, he didn't really
25 ever come into the foster carer scheme, he wasn't being

1 reviewed or anything?

2 A. Yeah, I want to be really clear that I make sure that
3 I give the Inquiry the correct evidence. My
4 understanding is that Mr Rae wasn't previously part of
5 Strathclyde --

6 Q. Right.

7 A. -- he became -- would you like me to describe the
8 circumstances that led to the placement? In terms of as
9 described here there was a concern raised about the
10 foster carers that the young person was staying with
11 first. Those foster carers knew Mr Rae. The young
12 person spent time socially with Mr Rae around his
13 stables and farming interests. And obviously when the
14 placement broke down, Mr Rae and his partner offered to
15 care for the young person.

16 Now, in terms of sort of process, what happened
17 subsequent to that was the initial assessment to be
18 a foster carer was rejected by North Ayrshire Council,
19 on the basis that the family had six dogs, so that
20 constituted a pack in terms of adoption and fostering
21 understanding.

22 Q. Right.

23 A. The physical environment also perhaps wasn't what we
24 would have aspired for in terms of foster care. But
25 Mr Rae and his partner were obviously making an offer to

1 look after the young person, the young person knew them
2 and was expressing a desire to go and stay there, so
3 those kind of cursory checks were undertaken and that's
4 how the placement came about.

5 Q. Right, so I was incorrect when I said he was
6 a Strathclyde carer. He was a North Ayrshire carer from
7 the beginning.

8 A. (Witness nodded)

9 Q. The idea of a link carer scheme had come from
10 Strathclyde and it was continued, this kind of
11 arrangement was continued by North Ayrshire?

12 A. Yes.

13 Q. I see.

14 LADY SMITH: But he was labelled link carer because he had
15 first been identified by the foster family that were on
16 your books in relation to whom you just said -- I don't
17 know what there were. There were concerns? They raised
18 concerns? Or there were concerns about them? Or what?

19 A. No, to recap in terms of how the situation came about,
20 the concern was about the first foster family in terms
21 of the care of the young person and that's what
22 triggered the file reading that allowed us to understand
23 what happened subsequently to that young person.

24 LADY SMITH: I'm sorry, I don't follow. Can we just go back
25 to the start. We have a young person who is placed with

1 a family in North Ayrshire --

2 A. For foster carers.

3 LADY SMITH: -- to be fostered and they are registered with

4 the Council?

5 A. Correct.

6 LADY SMITH: There comes a time, I don't know how long

7 elapsed, that that came to an end because of a concern?

8 Is that right?

9 A. Yeah, there was a concern about the level of care being

10 offered.

11 LADY SMITH: Was that the Council's concern?

12 A. Yes.

13 LADY SMITH: About the level of care that the first foster

14 family were offering?

15 A. Yes.

16 LADY SMITH: Okay.

17 And the first foster family, about whom the Council

18 were concerned, suggested that the child could go to the

19 **William Rae (WR)**? Is that right?

20 A. Yes, so --

21 LADY SMITH: And the **(WR)** were not registered foster carers?

22 A. No.

23 LADY SMITH: But a way around that appeared to be using this

24 link foster care idea; is that right?

25 A. Yeah, and I don't -- I think it probably wouldn't be

1 described as a way to circumvent the process, because
2 they did ask to be foster carers and were declined, and
3 then it was obviously --

4 LADY SMITH: The (WR) had been declined previously?

5 A. Yes, that was the reference I was making to the initial
6 assessment around the pack of dogs and the physical
7 environment of the house.

8 LADY SMITH: Of course, yes.

9 A. And then obviously what was kind of behind that then was
10 that this was a family that the young person knew, had
11 spent time with before and was expressing a wish that
12 that would be a good outcome for them. I understand
13 that's not -- you know, upon reflection --

14 LADY SMITH: I'm sure you understand how it's looking from
15 where I'm sitting, Scott.

16 A. Oh, I absolutely do, my Lady, I absolutely do.

17 LADY SMITH: The family are not suitable foster carers for
18 registration. The pack of dogs is a worry, et cetera.
19 But to achieve what the foster carers, who were also no
20 longer the right people for this child, having suggested
21 the child could go to this family, these people, who
22 hadn't been approved because of their dogs, got the
23 child under a different arrangement.

24 A. Yes. I understand the concerns that you're expressing
25 and I think we have reflected long and hard, not only in

1 preparation for today but also previously around what
2 was custom and practice at that time and how did that
3 set of circumstances come around. I think it's fair to
4 say we wouldn't have seen that type of practice today.

5 LADY SMITH: Yes.

6 Thank you.

7 MS INNES: Yes, you say there, Scott:

8 "Following preparation of the section 21 response,
9 significant learning was identified for the families
10 team and there are clear procedures in place for dealing
11 with allegations in foster care and kinship."

12 Are you able to give us a bit more detail about what
13 that significant learning was that came out of your
14 response to this notice?

15 A. I think in terms of policy and practice, a number of
16 things were strengthened in relation to process around
17 checks, for example.

18 One of the other ones was -- I think we made
19 reference to areas around the response when allegations
20 are made against carers, and obviously there was
21 Scottish Government guidance in 2013, but obviously we
22 need to kind of go a long way to create a process that
23 has at its heart the interests and well-being of
24 children and young people and I'm going to say the
25 rights of foster carers to kind of proper sort of

1 process and investigation, because we're always mindful
2 of any move for a child is a harmful move, so you need
3 to make decisions based upon the information you have so
4 another aspect that was strengthened was in relation to
5 a more consistent approach to the management of
6 allegations against carers that involved responding
7 under the child protection guidelines, for example, very
8 clearly these are family care-based allegations, so we
9 would now respond to that by way of an inter-agency
10 referral discussion, for example, and the types of
11 processes that I'm sure the Inquiry is familiar with in
12 terms of child protection today.

13 So a significant learning and improvement as
14 a result.

15 LADY SMITH: Sorry, Ms Innes, just going back to that
16 indictment again, how many complainers were involved?

17 MS INNES: I am using a completely redacted version, so it's
18 difficult for me to immediately tell quickly.

19 LADY SMITH: You can't tell.

20 MS INNES: Just bear with me in terms of the dates of birth
21 that I can see. (Pause)

22 It could be three, but I have to say I'm not clear
23 because -- oh, I'd forgotten that my technology would
24 assist here.

25 LADY SMITH: Thank you. (Pause)

1 MS INNES: Four complainers, my Lady.

2 LADY SMITH: Thank you.

3 That's four children.

4 A. Yes.

5 LADY SMITH: Four children abused by this man.

6 A. Yes. We don't underestimate the impact of what's
7 happened, my Lady.

8 Further information in terms of what's changed as
9 a result, you know obviously in this case the young
10 person involved disclosed a number of months post
11 placement, so in terms of custom and practice today, for
12 example, we would routinely revisit with young people
13 who have left placement to seek their views and to check
14 in on, you know, heaven forbid further circumstances
15 such as the ones described here have taken place.

16 LADY SMITH: Thank you.

17 MS INNES: Yes, I think you're referring there to the
18 question posed which quotes some of the information
19 provided to the Inquiry by the Council, where there is
20 reference to a disclosure having been made.

21 "She didn't name her alleged abuser or wish to
22 progress the criminal investigation."

23 It was said that it wasn't possible to investigate
24 further and no action was possible at that time and that
25 by the time that charges were made, Mr Rae and his

1 partner were no longer approved foster carers.

2 A. Yes. You know, I've kind of posed the question, you
3 know, in terms of preparation: could and should people
4 have been more assertive? And I think what we've kind
5 of concluded in terms of what was custom and practice at
6 the time, that the issues were related to colleagues
7 and -- well, North Ayrshire Police, I presume it would
8 have been at that time, but the advice given was without
9 a complaint from an individual they couldn't proceed,
10 and that clearly, you can imagine, given what we now
11 know subsequent to the charges, what the young person
12 went through --

13 LADY SMITH: The police may not have been able to proceed,
14 but as the answer goes on given it states the victim
15 didn't name her alleged abuser, it's unclear how North
16 Ayrshire knew this disclosure was about William Rae.
17 That's been picked up from the files, has it?

18 A. If I recall correctly, the young person referred to
19 "Billy" as being the accuser, which allowed --

20 LADY SMITH: As being the abuser?

21 A. William Rae was known as Billy, my Lady.

22 LADY SMITH: You don't need the police to decide they're
23 going ahead with a prosecution for you as a Council with
24 child protection responsibilities to take steps to find
25 out what's been happening, do you?

1 A. I'm sorry, what --

2 LADY SMITH: As a council with child protection
3 responsibilities -- let me put it more strongly -- your
4 duty to investigate whatever you can is not something
5 that disappears simply because the police say, "We're
6 not prosecuting".

7 A. So in terms of speaking to the young person to
8 understand what happened to them? Is that what
9 you're --

10 LADY SMITH: In terms of in an individual case, doing what
11 you can to find out if there is a problem --

12 A. Yes.

13 LADY SMITH: -- underlying what has been said.

14 A. Yes. So I think in terms of North Ayrshire's response
15 to that, the support offered post placement by so, for
16 example, colleagues in through-care and after-care
17 service to remain alongside the young person was what
18 facilitated that ability to disclose what had happened.
19 Thus we became aware of the circumstances and responded,
20 but at that point, she would have been 17 and in terms
21 of the eyes of the law at that time --

22 LADY SMITH: I get that. I'm not sure you're following
23 me --

24 A. Sorry.

25 LADY SMITH: -- let me just ask you this.

1 Shouldn't a council in that position have
2 a continuing concern about -- you knew at least it was
3 Billy, therefore it's looking like this man, Rae,
4 following through to see what happened to him, where is
5 he, could there be risk to other children, check is he
6 still on our books or not, take appropriate steps,
7 whatever? That's quite different from supporting the
8 child or the young person.

9 A. Apologies, I misunderstood.

10 So obviously in terms of when the young person left,
11 that ended their role as carers or link carers at that
12 time, there were no other children from North Ayrshire.

13 LADY SMITH: Thank you.

14 MS INNES: Can we move to Part B of your response now,
15 please, Scott. This is on page 60. If we look down the
16 bottom of the page, under (a):

17 "Acknowledgement of abuse. Does the Local Authority
18 accept that between 1930 and 17 December 2014 any
19 children cared for in foster care were abused?"

20 I'm assuming, given what we've just looked at, the
21 answer to that is yes?

22 A. Yes.

23 Q. If we go over the page, please, to 61, and (b):

24 "If so, what is the Local Authority's assessment of
25 the extent and scale of such abuse?"

1 I think we've seen this phraseology before:

2 "For the vast majority of children placed in foster
3 care by ... North Ayrshire Council, abuse did not occur
4 and there was no suggestion that it did."

5 But I think you've already confirmed that you accept
6 that there could be unreported abuse.

7 A. (Witness nodded)

8 Q. You then at the end of this paragraph say:

9 "Those cases [that you've identified] appear to
10 represent a small minority of children placed in foster
11 care locally over the relevant period."

12 I assume I think it was said by your Council in
13 opening submissions that the fact that there's a small
14 number doesn't mean to say that it's of less importance.

15 A. No. Absolutely not.

16 Q. Then if we move to systemic failures, at (a) at the
17 bottom of page 61, 3.2:

18 "Does the Local Authority accept that its systems
19 failed to protect children in foster care between 1930
20 and 17 December 2014 from abuse?"

21 It says:

22 "There is no evidence that the North Ayrshire
23 Council systems failed to protect children in foster
24 care from abuse."

25 Given the evidence that we've just looked at, does

1 that remain the Council's position?

2 A. There's not, I guess, adequate words to kind of convey
3 the experiences of the young person we've talked about.

4 I think in terms of reviewing the case files that
5 we've had, notwithstanding what we know about the
6 context of practice and policy at the time, the
7 necessary checks, as it was, at the time were
8 undertaken, the relevant reports were placed with the
9 Children's Hearing system and the statutory visits were
10 undertaken.

11 So in terms of did the systems fail to protect the
12 child in foster care from abuse, I think we can reflect
13 that the systems as they were designed at the time
14 respond in the way they should have, but that doesn't
15 diminish in any way, shape or form from what happened to
16 that young person and the responsibilities that we all
17 bear within that.

18 LADY SMITH: Maybe the systems weren't good enough.

19 A. I think we can reflect on that, my Lady, in terms of how
20 things have changed over the last kind of years around
21 fostering practice and child protection practice.

22 LADY SMITH: An aspect of that system, to use your language,
23 was only using "light-touch" --

24 A. Very much so.

25 LADY SMITH: -- approval for the (WR).

1 A. Yes, and I think that clearly -- I think we all still
2 struggle to square that circle in terms of why would you
3 only do that for a link carer and why would you do that
4 for a foster carer when you're both looking after the
5 same young person.

6 LADY SMITH: And the fact that those people had previously
7 been turned down as foster carers --

8 A. Yes.

9 LADY SMITH: -- didn't under the system mean that there was
10 an automatic veto on them becoming any form of foster
11 carer.

12 A. No. You can apply this kind of thinking to kinship care
13 today where people say they understand that children
14 achieve the best outcomes where they're cared for by
15 members of the family or close friends. Now I know that
16 the Inquiry's had some insight into what is the actual
17 role of fostering, what's different between fostering
18 and kinship care or link carers as in this case, and
19 that's very much around in the context of today the
20 professionalisation of foster care, the training that's
21 now required.

22 I don't like referring to pounds and pence, my Lady,
23 but the fact that people are paid to do the job, the
24 fact that kinship carers may not have -- and don't get
25 me wrong, not all our foster carers have nice, shiny

1 houses, they come from a range of different backgrounds
2 and I come back to kind of the question about the
3 ability to kind of relate and understand and empathise
4 of what makes good foster carers. And that's the case
5 today in terms of how to support young people that are
6 requiring out-of-family care.

7 LADY SMITH: Thank you.

8 MS INNES: Then finally in this section, Scott, if you can
9 look on to page 62 at the bottom of the page, 3.3(a),
10 the Local Authority is asked there whether it accepts
11 that there were any failures or deficiencies in its
12 response to abuse and allegations of abuse of children
13 in foster care between 1930 and 17 December 2014. The
14 answer there is:

15 "There is evidence that the North Ayrshire Council
16 in general acted appropriately in responding to
17 complaints of abuse when received, both in terms of
18 following its own procedures and making referrals."

19 There's reference to review, removal of children
20 from placement, et cetera. I think going on over the
21 page to 63, in the paragraph beginning:

22 "It is acknowledged that there are gaps in recorded
23 information, including as to the steps taken in response
24 to certain complaints. In particular, there are gaps in
25 the information held by North Ayrshire Council in

1 relation to certain allegations of abuse made against
2 external foster carers."

3 So you weren't able to confirm one way or another.
4 So it appears that there's perhaps issues in terms of
5 recording a response or --

6 A. (Witness nodded)

7 Q. If there's nothing there about a response, could that
8 mean that maybe it wasn't responded to?

9 A. I think what's clear in terms of what we do as a result
10 of our learning from these processes is that there's
11 a very clear direction now about recording the outcomes
12 clearly of all complaints, allegations of abuse and
13 suchlike. In terms of I think the point you're making
14 about external foster carers, so foster carers external
15 to the council, that ability to gather the correct
16 evidence in terms of -- I'm trying to think of the right
17 word. So ensuring that as our role as -- to use the
18 current terminology, to our role as a corporate parent,
19 so where there are complaints against foster carers in
20 other agencies, we satisfy ourselves that due diligence
21 has been paid to the complaint, proper process has been
22 followed and outcomes are reasonable -- not
23 "reasonable", that's a terrible word, but proportionate
24 to the complaint and are fully evidenced.

25 Q. I suppose again looking back to the example of Mr Rae,

1 you did indicate that perhaps when the young person had
2 made the allegation, perhaps there was some -- things
3 might have been dealt with a bit differently.

4 A. I think if we apply today's learnings to what happened,
5 particularly in the case of Mr Rae, there are probably
6 certain points on that journey where you think things
7 would have been different in terms of -- South Ayrshire
8 had Who Cares? for example, the strength within
9 contemporary advocacy services is much stronger, its
10 prominence and its contributions to forums for young
11 people have kind of been discussed and the outcomes have
12 been developed, is kind of much strengthened compared to
13 how it was with Mr Rae.

14 The gaps in recorded information are -- they are
15 what they are and I think recording practice today
16 compared to how it was even 10, 15 years ago -- well,
17 I know from reading Mr Rae's case. So I would reflect
18 those were contemporaneous notes. You know, there were
19 still deficiencies compared to what we would describe as
20 good recording today.

21 I don't know if that helps you or not.

22 MS INNES: Thank you very much, Scott, for your evidence.

23 I have no more questions for you. Thank you.

24 LADY SMITH: Scott, you'll be glad to hear I have no more
25 questions for you either.

1 That's a broad smile.

2 Thank you very much for engaging with us. Can
3 I assure you, I'm very conscious of the fact that you're
4 late on the scene, as it were, so far as all these
5 events were concerned and because of the role you now
6 play in this Local Authority you're having to speak for
7 it in relation to matters that happened quite a while
8 ago and even in relation to the completion of the
9 responses to our section 21 order.

10 I know that's not easy and I'm well aware that we've
11 put you under the spotlight and asked some difficult
12 questions, including me. I hope you appreciate that's
13 all done for the sake of children, children today and
14 children tomorrow, and you can go away remembering that
15 and it's certainly not by way of intending to attack you
16 at all.

17 A. If it's okay to say, I didn't feel that and --

18 LADY SMITH: Good.

19 A. -- I think it's important to state that North Ayrshire
20 comes to the table as a learning authority, it's learnt
21 a lot through the process, it knows it will learn
22 further from the recommendations that will come from the
23 Inquiry and, you know, whether I've been here six weeks,
24 six months or six years, the responsibility that we all
25 bear to the children and young people in our care is

1 what makes us get out of bed every morning to ensure the
2 very best that we can for them. So I appreciate the
3 Inquiry's time.

4 LADY SMITH: I'm grateful to you for that.

5 It's now 4 o'clock, it's Friday afternoon, and
6 I hope you're able to take a breather. I'm able to let
7 you go. Thank you.

8 (The witness withdrew)

9 LADY SMITH: I think we can now take a breather, Ms Innes,
10 but tell us first what's on the menu for next week,
11 please.

12 MS INNES: We have evidence from various other Local
13 Authorities from Tuesday to Friday next week, beginning
14 with Aberdeen and Aberdeenshire on Tuesday.

15 LADY SMITH: Very well. I'll rise now until 10 o'clock on
16 Tuesday morning and in the meantime wish you all a good
17 weekend.

18 Thank you.

19 (4.00 pm)

20 (The Inquiry adjourned until 10.00 am on
21 Tuesday, 17 May 2022)

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