

Friday, 4 November 2022

1

2 (10.00 am)

3 LADY SMITH: Good morning.

4 We return to Local Authority evidence this morning
5 and I'm told that we have the two witnesses that are
6 coming from the East Lothian Council ready to give
7 evidence; is that correct?

8 MS INNES: We do, my Lady. The witnesses are Judith Tait
9 and Emma Clater.

10 LADY SMITH: Thank you.

11 Judith Tait (affirmed)

12 Emma Clater (affirmed)

13 LADY SMITH: Can you tell me how you'd like me to address
14 you? I'm happy to use your second names if that's
15 comfortable for you or if you prefer your first names?

16 MS TAIT: First name would be fine for me.

17 MS CLATER: First name for me as well, please. Thank you.

18 LADY SMITH: Thank you, Judith and Emma, for coming this
19 morning to give evidence here at the Child Abuse
20 Inquiry. Your red folders have documents that you've
21 been so helpful as to let us have in relation to East
22 Lothian Council and we'll also bring documents up on the
23 screens in front of you as we go to different parts of
24 your evidence. We're not going to look at every page in
25 the red folder, don't worry.

1 If at any time you have any questions or queries,
2 please don't hesitate to speak up. We'll do our best to
3 help you give your evidence as clearly and carefully as
4 you can, but just say if it's not working for you and
5 we'll find a way of doing it better.

6 If you need a break at any time, that's not
7 a problem. I do normally take a break at 11.30 anyway,
8 so if you can bear that in mind that might help, but any
9 other time it's okay. If it works for you two it works
10 for me, that really is the key.

11 If you're ready, I'll hand over to Ms Innes and
12 she'll take it from there.

13 MS TAIT: Okay, thank you.

14 LADY SMITH: Thank you.

15 Ms Innes.

16 MS INNES: Thank you, my Lady.

17 Questions from Ms Innes

18 MS INNES: Now, Judith, if I could start with you, please.

19 Could I ask you your date of birth first of all?

20 MS TAIT: [REDACTED] 1965.

21 Q. You've provided a CV to the Inquiry and I think you
22 qualified as a social worker in 1988; is that right?

23 MS TAIT: Correct, yes.

24 Q. You initially worked with Strathclyde Regional Council
25 and then moved to Lothian Regional Council and then it

1 became City of Edinburgh Council when you were there.

2 And I think you began as a generic social worker but

3 then moved into children and families?

4 MS TAIT: That's correct.

5 Q. And you also progressed your career, I think, becoming

6 a team leader with Scottish Borders Council where you

7 worked between 2002 and 2007?

8 MS TAIT: Correct.

9 Q. Was that again in children and families?

10 MS TAIT: Yes, it was.

11 Q. Then in 2007 you moved to the Social Work Inspection

12 Agency?

13 MS TAIT: Correct.

14 Q. You worked there until 2011, until you became, I think,

15 first of all a senior inspector with the Care

16 Inspectorate?

17 MS TAIT: That's right.

18 Q. You say that you were leading and contributing to joint

19 strategic inspections of children's services, you were

20 a link inspector for Local Authorities, and there were

21 various other matters that you dealt with, including

22 being the lead for reviewing the deaths of looked-after

23 children and the organisation's role collating findings

24 from initial and significant case reviews?

25 MS TAIT: That's correct.

1 Q. Within the Care Inspectorate I think you then moved to
2 become a service manager?

3 MS TAIT: Correct.

4 Q. Which I assume was a promoted post?

5 MS TAIT: Yes.

6 Q. You then I think went on secondment to East Lothian
7 Council?

8 MS TAIT: Correct.

9 Q. And I think maybe for the first year of -- well, you
10 were there for a year on a secondment basis and then in
11 2019 you moved to work for East Lothian Council. Is
12 that right?

13 MS TAIT: That's correct, yes.

14 Q. When you went on secondment, you went as Head of
15 Children and Adult Services?

16 MS TAIT: That's correct.

17 Q. Then in 2019, when you began working with East Lothian
18 Council directly, you were Chief Operating Officer for
19 Children's Services and you were the Chief Social Work
20 Officer?

21 MS TAIT: Yes.

22 Q. Then I think there was a management restructure and
23 I think your current role is head of children's services
24 and Chief Social Work Officer?

25 MS TAIT: That's correct.

1 MS INNES: Okay.

2 We move to you, Emma. What's your date of birth?

3 MS CLATER: [REDACTED] 1977.

4 Q. Your current role I think is as a service manager in
5 specialist social work services with East Lothian?

6 MS CLATER: Yes, that's right.

7 Q. You tell us in your CV that you qualified as a social
8 worker I think in 2003?

9 MS CLATER: Yes.

10 Q. You worked with West Lothian Council from 2003 to 2018?

11 MS CLATER: Yes.

12 Q. And I think you worked in various teams with West
13 Lothian Council, again moving from being a social worker
14 to being a team manager?

15 MS CLATER: Yes.

16 Q. And you had experience in working in children and
17 families and also in criminal justice for a --

18 MS CLATER: Yes, that's right.

19 Q. -- period? Then in 2019 you worked with the Independent
20 Care Review?

21 MS CLATER: Yes, on a secondment, yes.

22 Q. That was on a secondment from East Lothian Council?

23 MS CLATER: Yes.

24 Q. Your role in the Independent Care Review was to lead in
25 relation to issues in relation to secure care; is that

1 right?

2 MS CLATER: Yes.

3 Q. Then your role with East Lothian, you were initially
4 a team leader and then you became service manager so
5 your current role in 2020; is that right?

6 MS CLATER: That's right.

7 Q. Okay and specialist social work services I think we
8 understand from your CV covers fostering, adoption,
9 kinship care services?

10 MS CLATER: Yes, that's right.

11 Q. I think that you were involved, Emma, in the preparation
12 of the Local Authority's response to the section 21
13 notice served by the Inquiry.

14 MS CLATER: Yes.

15 Q. So I'm going to begin by asking you just a couple of
16 questions about first of all the predecessors of East
17 Lothian Council and then moving on to the case file
18 audit methodology. Then we'll come to some other
19 matters in a moment.

20 If we can look, please, at ELC-000002425, page 2.

21 At (a) I think that we can see obviously that the
22 current Local Authority area has been subject to
23 a number of changes. In the period from 1930 to 1975
24 you tell us that East Lothian County Council held
25 overall responsibility for the provision of care in the

1 East Lothian area.

2 MS CLATER: (Witness nods)

3 Q. However, following the 1948 Act, a joint committee was
4 formed between East Lothian, Midlothian and Peeblesshire
5 County Councils and that held responsibility for
6 appointing the children's officer under the 1948 Act?

7 MS CLATER: Yes.

8 Q. So those authorities worked together?

9 MS CLATER: Yes.

10 Q. I think we've seen some reference to that joint
11 committee in material that we've seen in children's
12 records. So that was the early period.

13 Then in 1975 obviously East Lothian was part of
14 Lothian Regional Council; is that right?

15 MS CLATER: Yes.

16 Q. Then since 1996 it's been East Lothian Council?

17 MS CLATER: Yes, that's right.

18 Q. If I can move to another document, please,
19 ELC-000003421, and this is where you set out some detail
20 of the way in which you went about responding to the
21 section 21 notice. You tell us first of all that you
22 decided to review a proportion of children's files and
23 their corresponding foster carers who were looked after
24 and accommodated by East Lothian Council since its
25 inception.

1 MS CLATER: (Witness nods)

2 Q. First of all, why did you focus the review on 1996 to
3 2014?

4 MS CLATER: So prior to 1996 we -- across the Lothians we
5 made the agreement that City of Edinburgh Council had
6 the majority of the files relating to that period and
7 therefore would respond prior to 1996. So a lot of our
8 response will focus from the reorganisation of local
9 government, 1996 onwards.

10 Q. Okay. You then talk in this paragraph about reviewing
11 a proportion of files and you say that you were advised
12 that by looking at 15 per cent of the files at
13 a relevant date, that would give you a reasonably
14 accurate snapshot?

15 MS CLATER: Yes, that's correct.

16 Q. And that reading more than 15 per cent of the files
17 wouldn't generally alter the findings substantially?

18 MS CLATER: Yes.

19 Q. Just to be clear as to what you were looking for at this
20 point in the file review, were you looking for answers
21 to questions that were maybe in parts A and C of the
22 response, so about practice and implementation in
23 practice? Or were you looking to find allegations and
24 complaints?

25 MS CLATER: It was primarily around what was our practice at

1 that point of time. We used our archivists and a lot of
2 our -- to look at actually what our policies and
3 procedures were around those times, but it was about
4 taking that step further and finding what was our
5 adherence to those policies and procedures and we looked
6 at that both -- we picked four years, you can see in the
7 submission we picked four different years as a snapshot
8 to look at both past practice in 1997, 2004 and 2011,
9 and then we also compared that with present practice,
10 and we picked the year 2019 to demonstrate and compare
11 against.

12 Q. Okay. You tell us about how you went about selecting
13 the files and you tell us about why you chose those
14 particular years. So you chose 1997 because it was just
15 after East Lothian had commenced.

16 MS CLATER: Yes.

17 Q. You chose 2011, because it was a couple of years before
18 the end of the Inquiry reference period. And then you
19 chose 2014 (sic) as a midway point between those two?

20 MS CLATER: Yes.

21 Q. And then, as you've said, you looked at 2019 for current
22 practice?

23 MS CLATER: Yes.

24 Q. If we go over the page you tell us about what you did in
25 relation to foster carer files?

1 MS CLATER: Yes.

2 Q. What did you do in relation to those?

3 MS CLATER: We picked a relevant number of children and then
4 looked at the corresponding foster care file for that
5 child. What that actually meant was that on some
6 occasion we were looking at a smaller number of foster
7 carers than children, because you maybe had more than
8 one child who was placed with the same foster carer.

9 However, we did pick a random sample of children.
10 We didn't pick particular groups -- groupings that were
11 with foster carers. It just happened that when it came
12 to that random sample that some were within the same
13 foster placement.

14 Q. You then in the next part of the page look at how many
15 and which files were reviewed?

16 MS CLATER: Yes.

17 Q. You say that you looked in depth at 51 children's files
18 with 36 different carer households, being 15 per cent of
19 those accommodated at 31 March in each of the four years
20 detailed.

21 Then you tell us about the breakdown at point number
22 1 and you say some of the carers appear twice in the
23 figures, having different children at more than one
24 snapshot date?

25 MS CLATER: Yes.

1 Q. And that's what you mentioned there in your evidence.

2 Then for current adherence to policies and
3 procedures you looked at 16 children from 2019, within
4 13 different carer households.

5 MS CLATER: Yes.

6 Q. And you excluded externally provided carers or adopters?

7 MS CLATER: Yes.

8 Q. Why did you exclude externally provided carers?

9 MS CLATER: We wanted to have a look at adherence to both
10 the foster care sides of our policies and procedures as
11 well as in terms of children in the policies relating
12 more specifically to the children within the placement
13 and we have very little control over the external
14 provisions, so it felt that in terms of what the Inquiry
15 was asking about our policies and practice, to get
16 a true snapshot we needed to consider those that were
17 within internal foster resources.

18 Q. Okay. Then at the bottom of the page you look at the
19 proportion of the files held and you say that while it
20 was 15 per cent in each of these snapshots, if you look
21 at it globally over the period 1996 to 2014, you read
22 files for 7.25 per cent of the children who were
23 admitted into your care over that period.

24 MS CLATER: Yes.

25 Q. That figure of 483 children being admitted into care,

1 does that mean children who were in foster care and
2 other forms of care or is it just children in foster
3 care?

4 MS CLATER: I think that relates just to children within
5 foster care.

6 Q. Okay.

7 Then over the page at page 3 you tell us about the
8 reviewing process and you talk about the experience of
9 the file readers first of all.

10 Then in the second paragraph you say that you gave
11 the file readers access to relevant policies and
12 procedures in place and you also prepared some reviewing
13 tools which gave references to the documents that the
14 file readers should look at. You've given the Inquiry
15 copies of these reviewing tools, so I wonder if first of
16 all we could look at ELC-000003424.

17 We can see that this is a child's file audit and
18 presumably this was a table that was to be filled in by
19 the file reader?

20 MS CLATER: Yes. So the expectation would be that the same
21 file reader read the child's file but also the carer's
22 file, because you can see there's some cross-reference
23 as well.

24 Q. Okay. There's various questions posed and I think we
25 can see at the bottom of the first page that we're

1 looking at here that you look at the question 4.2 of the
2 section 21 notice:

3 "Did we adhere in practice to the policies and
4 procedures in place at the time in relation to ..."

5 The first example there is child welfare and in the
6 "helpful hints" column it asks them to look at the
7 foster carer agreement and then it tells them what
8 documents to refer to. So it looks as though the
9 expectation was that the file reader would essentially
10 compare what was going on in the file against the
11 expectation that was set out in the foster carer
12 agreement?

13 MS CLATER: Yes, that would be right.

14 LADY SMITH: In turn the foster care agreement should be
15 reflecting what it was that was the Local Authority's
16 policy and practice at the time?

17 MS CLATER: Yes, absolutely, and making that very, very
18 clear so that the foster carer is aware of what that
19 expectation is as well.

20 LADY SMITH: Thank you.

21 MS INNES: We can see that that's quite a lengthy template
22 that was completed for a child's files and there was
23 a similar template in relation to foster carers if we
24 look at ELC-000003425, we see a similar form.

25 Again just looking at the first question that we see

1 on this page, it refers to the Inquiry's question about
2 adherence in practice to policies and procedures in
3 relation to -- just under that -- fostering panels.

4 Again, in terms of helpful hints for the file
5 auditors there's questions posed that are based on the
6 procedure that was put in place in 1996.

7 MS CLATER: (Witness nods)

8 Q. So things like were there three members of the panel
9 present? Is there a chair? Has the medical adviser
10 seen written reports? Is there a minute?

11 Then the later period, 2009, which is, I presume
12 policy changed at that point, were there male and female
13 members? Was there a clear record of recommendations
14 including dissensions? Which must have been new things
15 that were added to the policy in 2009?

16 MS CLATER: Yes. I think that's to be clear those things in
17 2009 were additional, they weren't instead of. But,
18 yes, I think just as practice develops we become aware
19 of more elements of good practice and what really
20 benefits a robust panel. So, yes.

21 Q. Okay. And again this was completed and then I think
22 these templates then formed the basis of your response?

23 MS CLATER: Yes.

24 Q. So presumably somebody or a team of people read all of
25 these?

1 MS CLATER: Yes. We had one of -- a couple of workers, but
2 one in particular from our learning and development team
3 who was actually co-trained as both a social worker and
4 has a legal background and was able to pull a lot of the
5 auditors' notes together and compile our submission for
6 the response to the Inquiry.

7 That response was then also checked by our own legal
8 adviser, our information management and information
9 governance and also overseen by myself and then also our
10 Chief Social Work Officer had sight of the final
11 submission also.

12 Q. Okay.

13 I want to move on to ask you to look at some
14 responses that you gave us in Part C, which are in
15 relation to practice and arise from this exercise that
16 you've just explained to us.

17 If we can look, please, at ELC-000002428, page 104,
18 there's a section there, "Training", and looking at the
19 1996 period, you note in relation to -- it's past
20 practice, so it's 1996 to 2014, and you say:

21 "We only found two files among those we reviewed
22 where there was no evidence of training: one was
23 a respite carer and one was only a carer for a year with
24 us. In the remainder we found good evidence, such as
25 completed training listed in carer review reports

1 completed by their supervising social worker. We did
2 find evidence of two caring households where one or both
3 carers were reluctant to engage with formal training.
4 One carer found it difficult to engage with group
5 training. But his worker creatively sent him articles
6 to read on topics and discussed these with him. (His
7 wife attended training). The other set of carers had
8 been fostering since 1981 and became reluctant to engage
9 in any kind of formal training over time, feeling that
10 it would be merely presenteeism. They were warm and
11 compassionate carers, with whom many formerly-fostered
12 children stayed in touch. Again their worker worked
13 creatively to use opportunities for informal training
14 with them. She never gave up, resulting in their
15 attendance at some group training in their final years
16 before their retirement."

17 We can see that that's actual evidence of examples
18 that you found in the file. What that seems to
19 highlight is that there can be circumstances in which
20 carers are reluctant to engage in training and I suppose
21 a couple of questions arising from that. Is that
22 an ongoing issue? And how do you address it?

23 MS CLATER: I think it is an ongoing issue. I think we
24 always encourage our foster carers to take up training
25 and it's one of our expectations for carers. We --

1 within -- when we think about the culture that we set
2 for carers, we're very, very clear in terms of the
3 handbook that we would be looking for them to take part
4 in training, in our supervision sessions with our carers
5 and also within our carer agreements in terms of
6 thinking about training.

7 One of the things that we have introduced now is
8 a post-approval group that the expectation is that all
9 carers would attend and we would also be really, really
10 clear with our fostering panels that we would be
11 encouraging them to be asking every panel about
12 training. And not just asking about what training
13 carers have undertaken, but what difference has that
14 made to their practice? How have they been able to
15 implement that? And I suppose what difference has that
16 made for the children in their care? That's very much
17 the focus of it.

18 We try and listen to carers in terms of what would
19 be helpful within that, because a lot of our carers are
20 perhaps from an older generation where training -- where
21 they haven't had a lot of formal training throughout
22 their lives and this is quite a scary concept for them,
23 but it is about very much thinking about actually what
24 does that mean for your day-to-day caring task? And
25 actually there's probably areas of practice that we

1 could all improve on, that it's really, really
2 important. So it's certainly an area of focus for us
3 and one that we would be continuing to push with carers.
4 But it can be really difficult to encourage carers along
5 to -- or to get carers to training, but it's certainly
6 something that we've very mindful of.

7 MS INNES: Judith, do you want to add to that?

8 MS TAIT: Yes, thank you.

9 I think what Emma's describing also represents the
10 way that there's a shift in the fostering task and we
11 ask I think a number of our older carers have come from,
12 as Emma says, backgrounds where they're not terribly
13 academically confident, so taking part in kind of formal
14 training may well be quite a challenge for them and
15 they're quite upfront about that and we sometimes see
16 that in the kind of written reports that I see as the
17 agency decision maker that some carers have written
18 they're not as comfortable in using kind of written
19 forms.

20 And also I think, you know, 20/25 years ago a lot of
21 what carers were doing was using instinct and using
22 their kind of nurturing family experience in order to
23 help heal and support traumatised children. I think
24 over the years and I think into the future the fostering
25 task has become more complex, undoubtedly. The level of

1 complexity of children we're accommodating now is,
2 I would say, considerably higher and therefore the
3 complexity of their needs and the challenge for the
4 carers and the caring task is also changing. I think
5 therefore the expectations that both training and
6 support will be more -- increasingly tailored to
7 children with much more highly complex needs.

8 Some of the children that we placed in foster care
9 30 years ago, you know, will still be at home now, so
10 I think there's been a shift over time of the kinds of
11 needs that we are looking for fostering to meet, and
12 therefore what we're looking for foster carers to
13 provide.

14 So it is becoming more professional overall, I would
15 say.

16 Q. I see what you say about more children perhaps being
17 supported to remain at home than was done maybe in the
18 past. Is there also a greater recognition of the trauma
19 that children have suffered at home, so perhaps in the
20 past there was less recognition of that?

21 MS TAIT: I think our staff are more knowledgeable about the
22 impact of trauma. I think that's -- so that's come with
23 just developments in training and understanding and the
24 way in which early traumatic experiences can be used to
25 help forecast children's needs. I think we've still got

1 room to improve in that and thinking ahead, what will
2 that experience mean for when that child is 13 and 14
3 and hits that developmental stage?

4 But, yes, I would say there's a greater recognition
5 of the complexity of the impact of early trauma and
6 abuse. We know, for example, that physical neglect will
7 have one of the longest-lasting legacies and impact on
8 children out of different forms of abuse. I'm not
9 suggesting for a minute that one feels any less
10 significant than the other, but what we know from
11 research, that physical neglect will have a long,
12 long-term impact on children. We didn't know that as
13 well in the past, therefore we need to use that to
14 adjust our expectations of the carers and what we know
15 our children can manage.

16 LADY SMITH: Can I just take you back to something you said
17 to the effect that some of the children that you would
18 have put in foster care 30 years ago will still be at
19 home just now. Are you telling me that fewer children
20 nowadays are removed from the home than used to happen?

21 MS TAIT: Not necessarily, no.

22 LADY SMITH: All right, well, what did you mean by that?

23 MS TAIT: I think that as we -- one of the tasks I set for
24 my staff is to think ahead. Is to think about the here
25 and now, what do we need to protect children in the here

1 and now and allow them to flourish and thrive, but think
2 ahead to what their adulthood will look like. Those
3 family ties that they will go back to, inevitably.

4 So I think in the past foster care existed almost in
5 a bit of a bubble. So a child would be removed, would
6 live with the carers, would thrive with the carers and
7 at the end of that care experience I would say a very
8 high percentage will return to some form of family
9 links.

10 Now we are expecting our carers to be engaging with
11 birth families much more so that child doesn't lose
12 those links. That family might not be able to meet that
13 child's needs as well as we would really want, but we're
14 probably better at recognising the need to protect and
15 nurture safe family relationships and set that child up
16 for a successful transition to adulthood. That's really
17 what I was meaning.

18 LADY SMITH: I see, thank you.

19 MS INNES: If we can move on, please, to page 136 and this
20 is at the bottom of this page you're addressing
21 a question in relation to practice about complaints and
22 allegations. In the second paragraph it says:

23 "From our analysis of the files of children where
24 allegations of abuse were made, it would seem reasonable
25 to conclude that the Local Authority did adhere in

1 practice to its policy in relation to complaints and
2 reporting about foster care -- that is that complaints
3 were treated seriously, investigated, and child
4 protection procedures were followed where appropriate
5 and incidents reported to the Care Inspectorate where
6 appropriate. There is evidence that carers were
7 suspended or de-registered where appropriate. However,
8 our analysis of the files and our centrally held record
9 of complaints, allegations and incidents [which is from
10 2004 to 2020] has identified improvements that could be
11 made in terms of our central recording of these. For
12 instance, from this centrally held list it's not
13 possible to distinguish between formally reported and
14 informally reported complaints ..."

15 Can you explain the issue that you're highlighting
16 there?

17 MS CLATER: Yes. So I think in terms of complaints, we
18 always took complaints seriously but there was a level
19 of assessment in terms of whether they were reported
20 formally or informally, and by that -- by "formally"
21 we're referring to complaints and allegations that have
22 gone through our child protection processes and have
23 been dealt with externally, so there's been discussions
24 between police, health and social work.

25 By "informally" we've referred to those that have

1 been dealt with internally without progressing to child
2 protection procedures.

3 A lot of that is based upon assessments and
4 different elements of assessments, but from our
5 complaints log it's very difficult to straight away say
6 that's informal, that's formal, and to look, I suppose,
7 at patterns of behaviour -- patterns of complaints. And
8 I think that's certainly around some of what we are
9 referring to and maybe some of that decision-making
10 around that in terms of our record-keeping.

11 MS INNES: Judith, do you want to add to that?

12 MS TAIT: Yes. I think we've -- it's a bit muddy and
13 I don't think we've maybe answered the question in the
14 submission as clearly and I think it's been a point of
15 reflection for Emma and I in going back and preparing
16 for today that we need to make sure we are absolutely
17 clear the route in which we will be dealing with
18 a complaint and the language we use. So I think there's
19 been -- as I say, it's not as clear as it could be or it
20 should be in terms of what we mean by complaint,
21 allegation, you know, and investigation, and we need to
22 improve the way we record the decision-making about the
23 different stages of those to be confident that we are
24 dealing with them all in the right process, because
25 they've all got their own process for dealing with.

1 I don't think we are -- our complaints log is really
2 capturing that decision-making as clearly as it could
3 do.

4 Q. What about recording these complaints, concerns and
5 allegations in the carer's file? For example, do you
6 feel from your review and from your reflections that
7 that's something that you're doing well or something
8 that you've noted that you need to improve on?

9 MS CLATER: I think, looking at our files, we did see that
10 allegations were recorded, allegations and complaints
11 were recorded within carer files. I think -- I think
12 across the board record-keeping is quite often something
13 that's -- that we need to give some attention to in
14 terms of improving our adherence to that at times.

15 I think the bit that we've perhaps not been so good
16 at is the decisions have been made but being really
17 explicit within people's files about the reasons behind
18 those decisions. As Judith says, I think that would
19 give us looking back historically a bit more confidence
20 in terms of why those decisions were made.

21 Q. Okay.

22 MS TAIT: If I may just add to that? One of my roles is the
23 agency decision maker, so I approve or endorse the
24 recommendations of fostering and adoption panels, which
25 means I review the full set of paperwork for each panel

1 that's being held. So I certainly see reports that are
2 for review panels that list whether a complaint has been
3 made against a carer and how that was dealt with, what
4 the response was, and then there'll be some reflection
5 of that within the panel minute of what does that mean
6 within the last year of fostering. So that is something
7 that I would regularly see.

8 MS CLATER: Just to add to that as well, one of the other
9 things we've seen over the years that has really aided
10 this has been the use of chronologies, the importance of
11 chronologies and really not seeing each complaint within
12 its own wee bubble. Actually, it's really important to
13 see that within pattern of behaviour and pattern of care
14 and chronologies and the increasing use of chronologies
15 has been really useful at seeing that.

16 MS INNES: Okay.

17 I'd like to move on to something else now and this
18 is in relation to the concept of a trusted adult.

19 If we can look, please, at ELC-000001651. This, as
20 I understand it, is guidance that East Lothian Council
21 had which was in place for the period 2010 to 2015.
22 I understand it was updated in 2015.

23 You tell us at 1.2 or this document tells us that
24 this is by reference to the Edinburgh Inquiry, which
25 recommended:

1 "... every child and young person who is looked
2 after and accommodated has the opportunity to identify
3 at least one suitable, independent person to whom the
4 child would feel confident about expressing concerns."

5 MS CLATER: Yes.

6 Q. Then at paragraph 1.3 it talks about this procedure
7 having been implemented in East Lothian and it talks
8 about children having the opportunity to identify
9 someone that they could trust independent of the
10 placement. It might be a member of their birth family,
11 significant adult or a professional that they have
12 regular contact with. Then it talks about young people
13 eligible for through and aftercare, it might be the
14 young people's supporter.

15 It then goes on I think to talk about the role of
16 the adult, the trusted adult, at the bottom of the page.
17 It says at 2.1 that they need to have regular contact
18 with the child and young person.

19 At 2.2 it talks about consent to share information,
20 although obviously if it's a child protection concern it
21 must be raised.

22 Then it says at 2.3:

23 "There will be an expectation that on at least one
24 occasion between the reviews (over a maximum span of six
25 months) that the trusted adult formally asks the child

1 or young person if they feel safe where they live and if
2 not establishes why and what if anything is being done
3 to help them feel safer."

4 Then over the page there's reference to them
5 potentially coming to reviews and hearings and then at
6 2.6 reference to the social worker being in touch with
7 the trusted adult.

8 I wonder if you can tell us whether that is
9 something that is still used in East Lothian or not?

10 MS CLATER: Our paperwork still reflects the trusted adult
11 process, the trusted adult system, and a lot of our
12 children and young people still have a trusted adult who
13 is identified for them.

14 I think we've kind of moved on a little bit and
15 taken it to the next level in terms of understanding
16 that it's really, really important that we capture
17 children's views, and for some young people and children
18 that trusted adult process works really, really well.
19 For others, they prefer to use somewhere like Who Cares?
20 Scotland. We have an advocacy and we have participation
21 workers there that work really well for them.

22 For some children and young people, their social
23 worker has been that really important person for them.

24 So although it's a really good system, it doesn't --
25 not all children and young people have chosen to opt

1 into that process. But I think that doesn't take away
2 from the fact that we're really, really aware that we
3 need to reflect children's views and wishes within all
4 our processes and children's daily lives.

5 And I think being clear as well that children's
6 views and wishes is not just about where they're living
7 but actually the day-to-day minutiae, what's important
8 to them, what matters to them, and what are the
9 important things that they really want to highlight
10 within their care plan.

11 MS INNES: Okay. Judith?

12 MS TAIT: Just to add I think I suppose from the inception
13 of GIRFEC and the recognition that, you know, that other
14 services have a key role to play in the planning and the
15 care of children, schools are so very often the places
16 where children are feeling safe or if -- you know, if
17 placements are fragile and there's kind of stress and
18 tension within that, the teacher -- their class teacher
19 would be by all intents and purposes their trusted
20 adult, it's somebody who's not in that home but they
21 would be part of that child's review.

22 So I think alongside Emma explaining how we've --
23 practice has overall developed further, I think that the
24 role of schools and school staff within that is really
25 important and we probably recognise that much more now

1 formally.

2 MS INNES: Okay.

3 This is, as you said, it's a choice for the child as
4 to whether they want to use a trusted adult. And if
5 they do, do you know if the trusted adult makes that
6 formal check in terms of the policy? There seemed to be
7 a requirement to make a formal check every so often that
8 the child felt safe and if not, why not, and those sorts
9 of things?

10 MS CLATER: Yes, I'm aware on a number of cases that
11 actually it works really, really well. When the trusted
12 adult really understands their role and is really signed
13 up to the role, it works really, really well.

14 What we see are some trusted adults who really
15 advocate really well on the part of children and young
16 people and really help children and young people
17 understand some of their plans. So while they may not
18 like some of what's happening, can really help them
19 understand the reasons behind and therefore maybe help
20 them understand what's happening and think -- and help
21 them develop their thinking around that.

22 So it's been really helpful for a lot of children
23 and young people.

24 Q. How would that type of involvement that you've just
25 mentioned -- I mean is that not the social worker's job

1 to explain to the child the reasons and suchlike?

2 MS CLATER: Yes.

3 Q. Does the child perhaps have a different relationship
4 with the trusted adult which makes it easier for them to
5 explain reasons and discuss issues? Is that --

6 MS CLATER: I think you're right, it is the social worker's
7 role, but I think the reality is quite often the social
8 worker is that statutory person who many children feel
9 are making decisions that they're not happy with or feel
10 very conflicted around their role in terms of their role
11 with both the child and their family. So this does
12 allow that child to have a person outwith the formal
13 processes, outwith that statutory person.

14 Also outwith, if they are living in foster care
15 residential unit, outwith that residential or foster
16 placement and allow the child -- quite often the child
17 can feel that the foster placement -- foster carer can
18 be almost aligned in some way with the social worker and
19 may not be listening to them as much as they feel they
20 would like, and this trusted adult allows that young
21 person to have that person, that person that's them,
22 there for them, purely to listen to their views.

23 Q. Okay.

24 Right, now I would like to move on to ask you about
25 some of the conclusions that you drew when you looked at

1 allegations and complaints of abuse, so Part D of the
2 response. I wonder if we could look, please, at
3 ELC-000002428. If we look at page 186 and at 5.1, when
4 you're asked about the nature of abuse you note that you
5 are aware of physical, sexual, emotional abuse and
6 neglect.

7 Is that awareness based on the file review that
8 you've already talked about or did you do something
9 different when you were responding to Part D of the
10 notice?

11 MS CLATER: Some of that was taken from the file review,
12 some of that was taken from our complaints log and the
13 work we did around there.

14 We were also aware of what we've referred to in our
15 submission as Cases A, B and C, and they were not
16 included within our -- the 15 per cent file audit that
17 we did, but we did a deep dive into those files because
18 obviously they were of concern to us.

19 So we were aware from all those different elements
20 of the nature of abuse.

21 Q. You talk about awareness and extent at 5.2(a), the first
22 case that you mention there, awareness of a fostering
23 household where there was sexual abuse of siblings by
24 the foster carers' son, the physical abuse of one of
25 those siblings by one of their carers, the further

1 sexual abuse by that son of two other children who had
2 lived with those carers in previous years. I think
3 that's what you've just referred to as Case A.

4 MS CLATER: (Witness nods)

5 Q. Is that right?

6 MS CLATER: Yes.

7 Q. That was a case in which a significant case review was
8 carried out?

9 MS CLATER: Yes, that's right.

10 Q. We'll come back to that.

11 Then there's reference to a second fostering
12 household, where you're aware of sexual abuse of a child
13 by the carers' non-resident nephew who was a child with
14 a learning disability.

15 Then a third fostering household you're aware of
16 physical abuse against three children?

17 MS CLATER: Yes.

18 Q. Are those cases B and C?

19 MS CLATER: C and B, yes.

20 Q. So the third fostering household is Case B?

21 MS CLATER: Yes.

22 Q. I think in relation to that fostering household,
23 an independent review was carried out by a Mary McKenna;
24 is that right?

25 MS CLATER: Yes.

1 MS TAIT: Correct.

2 MS INNES: So we'll come back to that.

3 If we move on, please, to page 187, in relation to
4 the number of complaints made in relation to alleged
5 abuse of children in foster care, you say that from your
6 analysis of your complaints log starting in 2004, you're
7 aware of 35 complaints in relation to alleged abuse of
8 children, and at (d) those are in relation to 20 foster
9 carers in 16 fostering households.

10 MS CLATER: Yes.

11 Q. So 20 individuals in respect of 16 fostering households?

12 MS CLATER: Yes.

13 Q. Then you note at (e) that in the relevant period no
14 foster carers were convicted of abuse of children. One
15 foster carer was charged but you understand the case was
16 dropped on the day of the trial and the foster carer was
17 de-registered.

18 MS CLATER: Yes.

19 Q. Do you know if that is one of the three cases that
20 you've referred to?

21 MS CLATER: I believe that's case ...

22 MS TAIT: A. I think -- but I think charges may have been
23 dropped about A and B.

24 MS INNES: Okay. So in Case A, as you said, there was
25 a significant case review. The foster carers' son,

1 I think, was convicted of sexual offences. I think one
2 of the carers was also originally charged with offences,
3 physical abuse?

4 MS TAIT: Correct.

5 Q. And those charges were dropped, is that your
6 understanding?

7 MS TAIT: Correct.

8 Q. Okay.

9 I wonder if we can move on, please, to page 189 and
10 at (d) you address the question there about patterns of
11 note in terms of timing and disclosure of abuse and you
12 say that your numbers are small so you can't make too
13 many generalisations, but you note that allegations of
14 one-off incidents of physical abuse were generally
15 reported on the day or within 24 hours. Allegations of
16 neglect were generally made in the course of a placement
17 after about two or three months. So you mean after the
18 person had been there for about two or three months,
19 they then made an allegation of neglect; is that what
20 you mean?

21 MS CLATER: Yes.

22 MS TAIT: I think that's -- so in reviewing the responses,
23 the templates that we looked at in relation to the
24 complaints log, those were the kind of findings, the
25 analysis of our staff who were preparing this led them

1 to believe that in those kinds of allegations there was
2 a time lag between placements starting and that -- you
3 know, and the child then talking about it. So that is
4 how we're making analysis of the complaints.

5 MS INNES: Then at (iii) you note that allegations or
6 disclosures of more prolonged physical abuse and sexual
7 abuse were generally only made after the child or young
8 person had moved to another carer and why do you think
9 that was?

10 MS TAIT: I'll answer that. I think that we know and our
11 CAMHS colleagues will also support us that children need
12 to have a safe secure stable base before they can begin
13 to address significant trauma. So if a child has
14 experienced abuse or abusive care, being able to talk
15 about that whilst they're in that care may well be quite
16 difficult, so quite often our -- when we see children
17 who we know have experienced trauma from their birth
18 families and that trauma is leading to distress and
19 distressed behaviours in placement, which is putting
20 pressure on placement, we're often seeking support for
21 those children from recovery of therapeutic
22 interventions and actually the message we get from them
23 is those children can't do that until they are
24 emotionally regulated, they feel they've got a safe
25 secure stable base, so there's a bit of a kind of

1 circular issue there. We need to provide the stability
2 before children often are able to take up the
3 opportunities for support and, I think, also then talk
4 and make disclosures.

5 Q. Then you note that there are a couple of exceptions to
6 that in your findings and one was disclosures made to
7 the police in the course of interview by young people
8 traced as part of a larger investigation, so that then
9 obviously happened some time after they had been in
10 placement.

11 MS TAIT: (Witness nods)

12 MS CLATER: (Witness nods)

13 MS INNES: Then disclosures made by young children to their
14 current foster carer of an incident that had just
15 happened involving people not living within the
16 fostering household, so that was -- they felt able to
17 talk to their carer about that?

18 MS TAIT: Yes.

19 Q. And that was an exception you found in your review.

20 MS CLATER: (Witness nods)

21 MS INNES: Okay.

22 If we can move on, please, to page 193 at the bottom
23 of the page, where you talk about what's known about
24 impact, and you answered this question by reference to
25 the cases that you know about rather than general

1 research or assumptions.

2 If we can perhaps even look over the page, you say
3 there, for example:

4 "In relation to defining the impact of abuse, while
5 there may be a few obvious correlations that can be
6 surmised between specific abuse experienced and
7 subsequent anxieties, fears or difficulties experienced
8 by the young person, it is not a simple task to untangle
9 the impact of [perhaps pre-care experiences, abuse in
10 foster care, other life events] ..."

11 What did you find about impact from your review?

12 MS TAIT: We -- so for some of the children and young people
13 that were -- whose records we read and specifically in
14 relation to Case A, we carried on supporting those four
15 young people into adulthood. I reviewed their records
16 yesterday, just to see when we last had contact and as
17 27/28-year-olds, even though they were outwith the kind
18 of aftercare legislation, the relationships between the
19 aftercare worker and the adult now were very much still
20 there and those young adults who may have moved outwith
21 East Lothian were still reaching back into the aftercare
22 service for support and guidance about quite often
23 everyday matters, but nonetheless it was a place where
24 they felt they could get some help.

25 So I mean Emma will be able to speak more in detail

1 about some of the challenges faced by our care-leaving
2 population, but, you know, we know the impact because we
3 are still supporting those care-leavers and our levels
4 of contact with care-leavers in East Lothian is strong
5 and is positive and I think with the changes in
6 legislation in terms of the continuing care legislation
7 and the extension of aftercare, our back door out of
8 social work is much bigger. We are working with young
9 people for a lot longer.

10 MS CLATER: (Witness nods)

11 MS TAIT: I would say, having come to the Inquiry as
12 a visitor to listen in to one of the read-in statements
13 was very powerful for me, because that was an example of
14 someone reflecting on two quite different experiences in
15 foster care, but also what that left her with
16 afterwards, the difficulty in making relationships, in
17 sustaining relationships, difficulty in trusting people,
18 that they were going to do right by her and just how
19 long that has taken her to get on to what she would see
20 as an even keel but still feels that barriers are there
21 as a result.

22 So we must always be mindful that those -- that even
23 positive care experiences will still live with children.
24 So I think from a general perspective we probably know
25 much more about the impact of care and we know about the

1 impact of good care and we know more about the impact of
2 poor care, but I think Emma's role within the service is
3 very critical in understanding and seeing the journeys
4 of those children and young people that have come out of
5 foster care and into adulthood.

6 MS CLATER: Yes. Yes.

7 As Judith says, we do support high numbers of
8 care-leavers within East Lothian and you do see the
9 impact of trauma on their day-to-day lives in terms of
10 the simplicity of holding down tenancies, so not being
11 able to have that secure and safe base into adulthood
12 which to grow and develop from that, and that's really
13 quite stark.

14 MS TAIT: I would say that children who have been in foster
15 care fare much better than those who have had
16 residential experiences and the relationships they've
17 had with their foster carers stay with them, you know,
18 into adulthood.

19 MS CLATER: And I think that would be fair to say that's one
20 of the changes that we've seen with foster care, that's
21 become a lot more expectations -- I think 20 years ago
22 we used to see some foster carers keeping in touch with
23 the children that have then moved on from their care,
24 but actually now there's that expectation that the
25 relationship with a child that you have in foster care

1 does not end when they walk out of the door and move on
2 to their next care placement or return home, whatever
3 that may be. It is about creating those lifelong
4 relationships so that they can have that stability and
5 we do see a lot of foster carers now who are there with
6 the young person when they get their first tenancy, so
7 they are there.

8 Quite often, you know, we talk about the formal
9 trusted adult system, but actually they can quite often
10 be the one being in touch with social work, going,
11 "Actually they've got no gas, they've got no
12 electricity, please can you do something today?" So
13 they can really form that advocacy role for children,
14 for young people, and there's a bit more of that
15 expectation now.

16 Again, we've spoken about the changing face of
17 foster care and what those expectations are. That would
18 be one of our expectations as well.

19 MS INNES: Okay. I wonder if we can move on to talk in more
20 detail about the case you've been referring to as Case A
21 and the foster carers' son was convicted. If we could
22 look, please, at JUS-000000065, you'll see that this is
23 a copy of the conviction.

24 So he was convicted on 18 August 2008 and sentenced
25 on 22 September 2008. The offences for which he was

1 sentenced were charges 5 and 6, which we'll come onto in
2 a moment, assault and unnatural carnal connection and
3 lewd, indecent and libidinous practices and behaviour
4 and unnatural carnal connection.

5 The sentence was for a period of eight years, six
6 years, being three on each charge running consecutively,
7 and an extension period of two years.

8 Then if we go on to look at those charges we can see
9 that some of the initial charges as we've already said
10 relate to the foster carer, but if we look on to page 3
11 and charge 5, which is at the bottom of the page. Your
12 Ladyship will see that over a period between March 1997
13 and August 2006, the charges of sexual offences against
14 a child in foster care.

15 Then going over the page we'll see charge 6, and
16 that's the other charge of which Mr Wilson was convicted
17 and again that's over the period beginning in 1997 and
18 up to 2005. And that's in respect of another
19 complainer, so obviously there was a conviction in
20 respect of two complainers.

21 As I've noted, there were charges against the female
22 carer and other charges against Mr Wilson. From the
23 information that the Inquiry has received from the
24 justiciary office, I don't have information on whether
25 those charges were withdrawn and whether it was a not

1 guilty or a not proven, for example.

2 LADY SMITH: Thank you.

3 MS INNES: In respect of the ages of the children at the
4 time, at charge 5, for example, the child was aged
5 between 5 and 14 at the time that he was in placement
6 with these carers, and that's the period of the
7 offences.

8 We know that a significant case review was carried
9 out in relation to these offences, and I know, Judith,
10 that you're going to address this part of the evidence.

11 If we can look, please, at ELC-000001803, page 2 of
12 this document, to the bottom of the page. It talks
13 about the children living with the carers and we can see
14 that there were -- it's redacted, obviously, but there
15 were four children and we can see the ages of the
16 children at the time that they were in placement. So
17 the youngest was two when she went into placement and
18 the oldest was six. The first two are the complainers
19 in respect of which Kenneth Wilson was convicted.

20 If I can move on, please, to page 3, there is some
21 initial discussion about the fact that this met the
22 criteria for the significant case review and that it was
23 going to be an internal, I think, case review. There
24 was a discussion about proportionality in terms of the
25 way in which the review was going to take place.

1 I wonder, Judith, if you can comment on that. There
2 seem to be criteria that had to be addressed at the time
3 and have those changed?

4 MS TAIT: Okay. I think the significant case review is one
5 of a number of retrospective reviews, internally and
6 with some external scrutiny for this case, but in terms
7 of this one, the guidance around initial case reviews
8 and significant case reviews is as referred to here and
9 that has moved on, I would say.

10 The decision as to whether or not there would be
11 a chairperson that was working within the services that
12 are involved with the child or external to that Child
13 Protection Committee I think is what we're referring to
14 when we talk about external.

15 So the managers and the Child Protection Committee
16 members agreed that for this case there would be -- that
17 the lead officer for the Child Protection Committee, who
18 is not employed by East Lothian Council, would collate
19 the evidence and information and in fact be the chair
20 for the significant case review, but that that then
21 completed report would be shared with the nurse
22 consultant for vulnerable children from NHS Lothian, who
23 had not been involved with the case, and also the lead
24 officer from Scottish Borders Council Child Protection
25 Committee, who was again very experienced in child

1 protection but was asked to consider The report to, I
2 suppose, provide additional challenge and support as to
3 whether or not that had addressed the necessary areas
4 and whether or not they accepted that the findings of
5 the review led appropriately from the evidence that was
6 considered and the analysis that was completed.

7 Q. This review, was it also notified to the Care
8 Inspectorate once it had been completed?

9 MS TAIT: Yes. There was at that stage and not until 2015
10 was there an expectation for Child Protection Committees
11 to notify the Care Inspectorate that an initial case
12 review had taken place or a significant case review.
13 I think Scotland was probably rather late to formalise
14 the reporting of those into a central point of
15 collation. So they were known about within each Child
16 Protection Committee area but not -- there was no kind
17 of obvious national vehicle for that.

18 But I did note that in some of the meetings that
19 were part of the initial and significant case review,
20 that members of the Social Work Inspection Agency were
21 invited to attend and they will have been wearing two
22 hats, I think, with that, so both thinking about it from
23 a regulatory perspective around fostering services,
24 where were the failings from a fostering service
25 perspective, but also what was the practice in terms of

1 these being looked-after children.

2 So there were various other points in which people
3 separate from the Local Authority and the immediate
4 parts were involved in it.

5 Q. We've heard evidence from the Care Inspectorate, some
6 time ago now, in which we've seen that they now publish
7 a report every few years summarising the outcomes of any
8 significant case reviews and giving learning for
9 practice, and I think their very first report was a sort
10 of catch up, it was a wider period potentially covering
11 this review as well, I think.

12 MS TAIT: (Witness nods)

13 Q. We know from your CV that that's something you were
14 involved with at the Care Inspectorate. Is that the
15 primary way in which learning is shared from significant
16 case reviews now?

17 MS TAIT: Probably not. So I was involved in the drafting
18 of that first report and what we did, if it would be of
19 interest, is that we requested on a voluntary basis
20 copies of all reports that may have been called
21 significant case reviews or were something in and
22 around -- a learning review type model and we looked at
23 how issues were identified and what kind of
24 recommendations were made in what area. And what became
25 very clear was there were hundreds of process-based

1 recommendations and very few recommendations for
2 leaders, and not as many recommendations that you could
3 actually say: we've made a difference as a result of
4 that.

5 So that learning then informed the shift into the
6 learning review model and the kind of changes of how
7 reviews are carried out.

8 But the primary way of sharing information -- so
9 within East and Midlothian we have a joint public
10 protection committee. With Midlothian we have
11 a significant case review subgroup where we chair
12 reviews on behalf of each council area. We're very
13 clear and very open about the learning from those
14 experiences and where there have been national ones that
15 have been published, we would bring that into that forum
16 and say: what does that mean for us? Where does our
17 practice stack up against the findings from that review
18 that took place over here or over there?

19 So I think the national reports are helpful, because
20 they're able to take a whole system look, but I think
21 there's learning that is -- that certainly happens
22 within our Local Authority area and part of our kind of
23 Child Protection Committee area for the reports that
24 have been carried out under the auspices of child
25 protection or public protection.

1 The world of reviewing cases is many and varied and
2 probably quite fragmented, so there are responsibilities
3 to report deaths of looked-after children. The NHS will
4 have other responsibilities to review things that have
5 gone wrong for children. So there's various layers of
6 reviews and I don't think there is a coherent way of
7 ensuring that all parties learn the learning from all
8 reviews that would help. So I'm not sure we've got that
9 right in Scotland yet.

10 Q. Okay. So, for example, I think you say in your
11 response, I think it's linked to the point that you're
12 thinking about, this significant case review focused on
13 social work -- recommendations for social work.

14 MS TAIT: (Witness nods)

15 Q. But there might have been recommendations for other
16 agencies, health, education and the like.

17 MS TAIT: (Witness nods)

18 Q. I think that you maybe have a concern that the same sort
19 of limitation applies to, for example, reporting of
20 deaths of looked-after children, that the focus is on
21 the social work department only?

22 MS TAIT: I think that's shifting. So I would say that the
23 statutory guidance for reporting on those deaths is
24 again of its time, it's all aimed at the Local
25 Authority. There's nothing to mandate the health

1 service or any other partner to provide information.
2 They do, in the main, because people work well in
3 partnership, but there's a need to catch up, I think, in
4 terms of setting it within the multi-agency arena.

5 I do believe now that the new learning review
6 guidance and the current practice in and around Child
7 Protection Committees would absolutely look much more
8 widely than just social work at that and it's quite
9 clear from this case that these children had a lot of
10 input through school, a lot of input through Child and
11 Adolescent Mental Health Services, and they would be
12 absolutely in at the heart and centre of reviews,
13 certainly within my Local Authority area, of something
14 that had gone so badly wrong for children. So I think
15 practice is much better than it was.

16 Q. Okay. If we can move on, please, to page 5 of this
17 report. At the bottom of the page, under "History", we
18 can see that the children were placed in foster care
19 with this family between 1994 and 2006. The allegations
20 of abuse were made in March 2007. At that point, they'd
21 already been removed from their placement with these
22 carers due to other issues. The last of the children
23 was removed in 2006.

24 So the allegations of sexual abuse came to light
25 after they had moved from the placement.

1 MS TAIT: (Witness nods)

2 Q. If we can move on, please, to page 8 and under the
3 heading "Summary", it says there that by the time they
4 had been removed in March 1997:

5 "... there was a strong sense of four very damaged
6 children. Foster carers involved with the children
7 found them to be very needy and felt strongly that they
8 would be difficult to care for together."

9 So they'd all been placed together, as we know, over
10 the period that we've mentioned.

11 Then it goes on to say:

12 "A foster family offering to care on a permanency
13 basis for four siblings is fairly unusual."

14 Is that what the original carers had done? They
15 offered to take the four children together?

16 MS TAIT: These carers wanted the four children. They were
17 inclined to consider adoption, but actually decided they
18 wanted to retain the -- you know, the more formal option
19 of support from the Local Authority, but made it clear
20 that they wanted to be allowed to get on with parenting
21 these children as their parents. So it was that the
22 Local Authority had been through the courts to have
23 parental responsibilities orders for the children so
24 they were out of the Children's Hearing system, and
25 therefore the two parties in terms of -- you know, with

1 responsibility for parenting was absolutely the Local
2 Authority and the carers.

3 But, yes, their wish to be seen as permanent,
4 forever carers was one of the elements I think that came
5 into play in helping us understand what happened here.

6 Q. Okay. It goes on to say:

7 "It was decided through children's services that in
8 order to reaffirm the permanent nature of the placements
9 and promote a sense of security for the whole family
10 a single social worker should support the family through
11 the resource team ..."

12 Was that a single person supporting the carers and
13 the children?

14 MS TAIT: Yes. I think that's a big learning point for us
15 and somewhere we've changed our practice, I suppose
16 immediately, and that has kind of remained the case.

17 MS CLATER: (Witness nods)

18 MS TAIT: So again, whether that was because we were seeing
19 them as almost an adoptive family and therefore, within
20 the realm of the kind of fostering service to be doing
21 most of the support but having the same social worker
22 supporting the children as supporting the carers was not
23 helpful, was not right here, and we needed to separate
24 those roles and we have done and that's absolutely what
25 our practice is now.

1 MS CLATER: (Witness nods)

2 MS INNES: Then it says that reviews were also carried out
3 internally by the team leader from the resource team,
4 and is that something that --

5 MS TAIT: Absolutely, we changed that during this case life
6 and we have since developed a strong independent
7 reviewing officer team, we have a team of three team
8 leaders whose sole responsibility it is to chair reviews
9 of children who are looked after at home, looked after
10 in residential, kinship care or foster care and they
11 stay with them through -- you know, through their kind
12 of any placement changes, so that's a -- not all Local
13 Authorities did that as well as East Lothian, as early
14 as East Lothian. I know that from my inspection
15 background. So I think that's been a positive and
16 important commitment towards having some independent
17 scrutiny over placements.

18 Q. It then goes on to talk, as you mentioned, about the
19 independent team leader being appointed to chair reviews
20 and then it says:

21 "This approach was later confirmed by an external
22 consultant who was brought in to help practitioners and
23 managers to appraise the situation."

24 At some point problems began to arise to the extent
25 that an external personal was consulted?

1 MS TAIT: (Witness nods)

2 Q. What was the point of that consultation and what was its
3 outcome?

4 MS TAIT: So my -- I suppose there are some of my
5 reflections but also speaking with managers who were
6 involved at the time, I think a professional view of
7 what was happening here was led by a narrative and
8 I think that narrative then in a sense set the course
9 for how we were viewing what was before us in terms of
10 the -- the conduct, behaviour of the carers and how the
11 children were coping, and I think there's various
12 elements in it.

13 So here was a foster family willing to take four
14 very damaged children and allow them to remain together
15 as siblings and that offer was seen as something that
16 was unusual and therefore valuable, and that we needed
17 to kind of protect and promote that.

18 The carers also never said, despite how difficult it
19 got, they never wanted that placement to end. They
20 remained committed to it.

21 The permanent status of the placement, I think, and
22 the parental responsibilities order meant the service
23 took more of a hands-off approach that may have been --
24 than would have been experienced maybe in different
25 kinds of placements with different legal orders.

1 The view was that the behaviours of the children
2 were driven by early trauma and experiences alone. That
3 there was not a consideration of what they were
4 currently experiencing was actually contributing to some
5 of those behaviours.

6 And that also the nature and style of the care
7 provided by the carers and the female carer in
8 particular was driven by the challenges of managing the
9 behaviour.

10 And that was supported then by the advice from
11 a nationally recognised expert.

12 We presented that family, that -- I think we allowed
13 the service to fit the concerns into that narrative. In
14 effect, we allowed the land -- we made the land fit the
15 map and the map was what we saw as our understanding of
16 what was going on and what the children needed.

17 So the role for the external consultant was to help
18 us understand what we needed to do better in helping to
19 settle, de-escalate some of those behaviours, whether or
20 not -- I mean there were conversations about whether or
21 not this placement should be stopped or disrupted and
22 the view from that consultation was: you've got
23 challenges here, you need to make sure you're providing
24 right support in the right places, but if you fracture
25 it now, where are you going to go with that?

1 And I think not having an alternative was probably
2 also very much there within the minds of those who
3 wanted to keep those four children together.

4 Q. Okay. Yes, and you've highlighted some of the points
5 that are made there, that concerns about the placement,
6 they were outweighed by the value of the children
7 remaining together, and the quality of care linked back
8 to the pre-care experience.

9 The issue I suppose now is what do you do about
10 that? What do you do to make sure that behaviour is
11 recognised for what it is?

12 MS TAIT: Yes. And that's an important point. So I --

13 LADY SMITH: Judith, just let me interrupt at this point.

14 This may be no comfort, but you are far from the first
15 person in your position or your sort of position in
16 a Local Authority who has sat at that witness table and
17 told me that they can see now that difficult behaviour
18 being exhibited by a child was at the time being
19 attributed to prior trauma, whereas it's now clear that
20 the likelihood was, if not it definitely is the case,
21 that it was due to trauma in the foster placement they
22 were in.

23 MS TAIT: I think it was probably both. I think absolutely
24 those children's early experiences would have been
25 contributing to some of those behaviours, but absolutely

1 it was also the current experience, yes.

2 LADY SMITH: How does one protect against the risk that
3 those assessing what is going on simply attribute it to
4 what happened to the children before they were placed in
5 that foster home? What do you do?

6 MS TAIT: We need to widen the lens through which we're
7 viewing those behaviours. We need to involve more
8 appropriate people and appropriate expertise in helping
9 us make sense of that. I think our reviewing practice
10 of having schools, CAMHS where they're involved, in
11 having other people looking at what is before them in
12 terms of the description and the analysis of those
13 behaviours means that our capacity to make better
14 assessments is -- has improved, has developed over
15 years.

16 I think we were to some extent blinkered here by
17 another set of variables that I've led out that aren't
18 there in most cases.

19 So those factors I described as being the ones that
20 created the narrative are unusual in that they all came
21 together and all came together for four children. Now
22 I'm not pretending that I'm in any way saying that
23 couldn't happen. I think our systems and processes are
24 stronger, our involvement of other people in the child's
25 life, our role of hearing the voice of the child and

1 saying: what is that voice telling us? Don't grab onto
2 something that you want it to be telling you.

3 LADY SMITH: Yes.

4 MS TAIT: Look at it much more objectively and say: what are
5 they actually saying? Because we recorded their views
6 all over the place in these files, but we didn't use
7 that to actually say: hold on, what else might it be
8 telling us about these children? And these were hugely
9 experienced staff.

10 So the significance of this report is for me -- if
11 it had been a case that it had been unallocated, it had
12 had newly qualified or inexperienced staff working
13 within it, I might have been able to explain some of
14 that better. It didn't. It had very experienced,
15 committed and able staff, but that combination of
16 circumstances created the pathway of the thinking which
17 got in the way of us being able to see what was going
18 on.

19 LADY SMITH: I hear two particular points you make there
20 that are very interesting.

21 One is make people, social workers, child protection
22 officers, realise they mustn't simply fasten on the
23 answer that they want to be the answer. The example in
24 this case was you have a foster family who really want
25 to keep these four children together. That's not going

1 to be easy to replicate at all, so you don't want to
2 remove them.

3 MS TAIT: (Witness nods)

4 LADY SMITH: But also, no doubt, you don't want to find that
5 you've been responsible for placing children in
6 an abusive foster household, end of story. You want the
7 answer to be something else, that where they are is okay
8 not just because it means you don't have to move four
9 children who you're managing to keep together, but you
10 don't want to discover that you had it wrong in making
11 the placement. Is that correct?

12 MS TAIT: That would be a fair point. We've talked about
13 that quite a lot and I think our review of the way we
14 deal with things when children make allegations, I'm not
15 seeing any reluctance to invoke -- in terms of current
16 practice --

17 LADY SMITH: Good, good.

18 MS TAIT: -- to invoke due process or to somehow think, "Oh,
19 I know those people, they wouldn't do that". I'm not
20 seeing that and I would never expect to see it.

21 So the notion that people can do things that are
22 very bad is part and parcel of being a social worker and
23 that that can happen both with people you work with and,
24 you know, in terms of things happen within workplaces as
25 well as within fostering or residential placements.

1 If allegations are made against staff, we are -- I'm
2 confident we deal with those well.

3 What we had here, though, also, as I think what's
4 underneath some of what you're asking is: how do you
5 prevent that from happening? And one of the most
6 important parts of social work is supervision and having
7 layers of management. You can't go straight from
8 a social worker to a senior manager. You have to have
9 layers and levels to be those checks and balances, to
10 say: well, I don't know this family, I don't know how
11 difficult they are, so I don't have to have all those
12 emotions that you've got about how to raise difficult
13 things with Mrs X. I'm just looking at what it says on
14 the paper. On the chronology, which we still haven't
15 entirely got right.

16 And in this case, the team leader, who was also
17 providing some of that supervisory role, was also being
18 partly a social worker, so she was also partly going out
19 and doing the doing, as well as supporting the allocated
20 worker to do other things, and I think that was too
21 close and therefore the objectivity and the distance
22 that is so important within the supervisory relationship
23 was not as strong as it needed to be.

24 LADY SMITH: I see what you're getting at there. I suppose
25 where the social worker is also engaging directly with

1 the foster home it's really hard to remain objective.

2 MS TAIT: (Witness nods)

3 LADY SMITH: Whereas if the person who is advising on what
4 to do next is removed, it's much easier --

5 MS TAIT: Yes.

6 LADY SMITH: -- to stay objective and look at the
7 information that's available.

8 MS TAIT: Yes.

9 LADY SMITH: Thank you.

10 Sorry, I completely diverted where you were going,

11 Ms Innes.

12 MS INNES: That's okay.

13 If we move to page 9, please, and the paragraph
14 there beginning:

15 "There is no indication that either foster carer had
16 knowledge of the sexual abuse. The boys in their joint
17 interviews indicated that they had not alerted the
18 foster carers to the abuse because they were scared and
19 one felt he would not be believed. This is possibly
20 indicative of the inappropriate sanctions and responses
21 towards the boys over a period of time."

22 So although the allegations of sexual abuse hadn't
23 been made, all of the concerns about the care that these
24 children were experiencing formed a context in which
25 they felt unable to speak out, I think is the link

1 that's being made.

2 MS TAIT: (Witness nods)

3 Q. So I suppose that might highlight -- well, the
4 importance of looking at the chronology and these
5 underlying issues about care?

6 MS TAIT: Yes. I think there's two points here. The
7 external review of the SCR carried out by the nurse
8 consultant and the lead officer also confirmed that from
9 their review of everything there were no obvious
10 pointers to that within the experience of the children.

11 But I think in terms of the assessment of carers,
12 the role of the carers' own children in the assessment
13 of the carers' capacity, readiness and ability to take
14 on a family of four children with that level of trauma
15 and damage was an area that we have since but needed to
16 strengthen.

17 It makes me wonder almost why a family would want to
18 take on four highly distressed children when you've got
19 two of your own who you're still parenting, and I'm not
20 saying there was anything sinister in the offer in the
21 first place. But the role of the foster carers' own
22 children in the decision-making about making such
23 a significant placement I think was not explored fully
24 enough.

25 LADY SMITH: Can you remind me, I think it's somewhere in

1 the report, the ages of their own children?

2 MS TAIT: I can't recall.

3 MS INNES: I think it's on page 2.

4 MS TAIT: I think Kenneth was 16 at the time it started, but

5 not 16 when they started fostering.

6 MS INNES: Yes. His date of birth is 1981 and the placement

7 started in 1997. So round about 16.

8 LADY SMITH: Then his sister was a year younger or so?

9 MS INNES: Yes.

10 My Lady, it's 11.30. I wonder if now might be

11 a good time for a break.

12 LADY SMITH: If it would work for both of you, we'll take

13 a break at this point and sit again in about 15 minutes.

14 Thank you.

15 (11.30 am)

16 (A short break)

17 (11.50 am)

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

19 MS TAIT: Yes.

20 MS CLATER: Yes.

21 LADY SMITH: Thank you.

22 Ms Innes.

23 MS INNES: Thank you, my Lady.

24 Before the break we were looking at the significant

25 case review, which is at ELC-00001803, I wonder if we

1 can move to page 12 of that and under the heading "The
2 placement". This sets out some of the concerns in
3 relation to the care of the children which particularly
4 arose it appears over the last four years of the
5 placement.

6 It talks about a lack of stimulation for the
7 children, poorly furnished and maintained bedrooms,
8 worrying practices, ie the use of CCTV and grounding the
9 children in a small, windowless room. I think it tells
10 us that one of the children was in a box room, that was
11 his bedroom, with no windows or anything.

12 MS TAIT: (Witness nods)

13 Q. Would issues like that in terms of the accommodation
14 provided for foster children, would that be a concern?

15 MS TAIT: My understanding is that he really liked that
16 room, that was a bit of a safe space for him, so it
17 was -- those examples you've given were all discussed at
18 all points within this. Whether or not they were dealt
19 with appropriately is another matter, but these were not
20 unknown and they were not -- you know, they had been
21 shared and they had been seen.

22 So I think as Emma referred earlier, may have been
23 dealt with individually rather than the enormity of
24 them, you know, seen within a chronology, you know,
25 I think as being one of the issues here. But those

1 examples that are up on there were known about.

2 And in the midst of that, there were also some
3 positive reports of the children doing well, the
4 children thriving, the children improving, and I wonder
5 whether the rule of optimism is around here and that,
6 you know, we reach for things that fit the map, that fit
7 the map we've given, again, rather than being able to
8 objectively see the pattern of that over time.

9 MS INNES: The next bullet point is:

10 "Rigid approaches to control behaviour."

11 The examples given are:

12 "Prolonged periods of grounding, locked doors,
13 controlled diet, rigid bathroom routines and removing
14 bedroom lighting."

15 I think we see later in the report that there were
16 timers on lights. I think the explanation was it was to
17 do with encouraging them to sleep. There were some
18 issues I think with bed-wetting and which toilet the
19 boys could use, and matters like that.

20 MS TAIT: I can't defend that. That's not care that is
21 acceptable. I think it was recognised as not being good
22 enough and there were conversations and discussions and
23 agreements put in place, but that is not foster care
24 that is appropriate.

25 Q. Then it says:

1 "Latterly the female carer as the primary carer
2 appeared exhausted, inconsistent in mood and unable to
3 manage the children's behaviour."

4 So that was becoming apparent and there was a note:

5 "The children's emotional well-being and behaviour
6 was concerning."

7 You've already mentioned issues in relation to
8 behaviour.

9 Below that it says:

10 "It was recognised that the children presented as
11 four very nice children who had done fairly well at
12 primary school. Much of the interaction between the
13 female carer and the children was warm and appropriate."

14 So that's some of the positives that were noted over
15 time as well.

16 MS TAIT: (Witness nods)

17 Q. I think you were saying that there was maybe too much
18 focus on that rather than seeing the pattern of
19 concerns?

20 MS TAIT: And I think alongside this the carers were saying
21 they felt that they were being judged and they were
22 aware of the scrutiny, and so there were sensitivities,
23 I think, in how they were handled and how they were
24 challenged.

25 And also their unwillingness to accept advice. We

1 can't make people accept advice but we need to stand
2 back and reflect and say why wouldn't you? Why would
3 you not, when you're faced with challenges, accept
4 advice and training and do all the things you possibly
5 could to actually make the caring task easier and more
6 successful?

7 So they didn't go to training and the advice wasn't
8 accepted, so their narrative was reinforced and not
9 challenged by exposure to training or anybody else's
10 view of how it might be dealt with. So they in a sense
11 removed themselves from the opportunities that might
12 have improved what they were doing.

13 Q. I think if we go on to page 14 we see some of the issues
14 that you've highlighted in relation to the carers. So
15 at the disruption meeting the carers expressed the
16 following views and this paragraph beginning:

17 "When the children were placed with them the package
18 negotiated was described as akin to adoption, with
19 support focused on the carers and minimal direct
20 involvement with the children."

21 So that was an issue.

22 Then it talks about social work support increasing
23 due to the concerns, and then the carers said:

24 "They felt they had lost their personal authority
25 and the children viewed children's services as the

1 decision-makers. They believe that this left the
2 children insecure and they as parents experienced the
3 increased scrutiny as undermining."

4 I think that reflects on what you just said about
5 the way that the carers were reacting to the involvement
6 of the social work department?

7 MS TAIT: Yes.

8 Q. And you would want to make sure that carers are taking
9 on board the supervision of the social work department?

10 MS TAIT: And in adoption cases we have no mandate for that,
11 they are the children's parents. But they weren't here.

12 Q. The next paragraph talks about:

13 "The original assessment of them and it refers to no
14 talking at mealtimes, children not allowed in adult
15 sitting room and no playing in the kitchen. These
16 issues were addressed by the adoption panel at the time
17 and acknowledged the carers need to lay down firm and
18 clear boundaries, especially at mealtimes, as this was
19 the only way to manage the care of six children. It was
20 also acknowledged that the four children had to be
21 retrained regarding manners."

22 So it looks as though again this must have been at
23 the disruption meeting, I think, that issues were
24 highlighted in relation to the assessment but it wasn't
25 thought at that time that these were problematic.

1 MS TAIT: It would have been seen as an approach with four
2 children who may well have had very little structure and
3 how you then create and help children live within the
4 structure of mealtimes and sitting at the table, I don't
5 know the detail but, you know, quite often children move
6 into foster care unable to sit still for five minutes,
7 you know, struggle to kind of sit down with a prepared
8 meal and sit with other people, so they will have --
9 there's often the need to, you know, have kind of
10 structure around that within the carer's home to teach
11 the children to live within that.

12 So whether or not that was seen as their approach to
13 that, I think from my reading of what I have read, we
14 found ways of making that acceptable probably.

15 LADY SMITH: When that paragraph refers to "the original
16 assessment", would that have been the assessment of the
17 foster parents as potential adopters?

18 MS TAIT: I think so. I think so. Or it could have been
19 the original assessment of the carers as foster carers.
20 Yes, I'm not entirely clear about that --

21 LADY SMITH: It does go on and say these were addressed by
22 the adoption panel at the time, which would seem to
23 indicate that it was talking about something that they'd
24 found was happening in the foster home.

25 MS TAIT: Yes.

1 LADY SMITH: Right, thank you.

2 MS INNES: Then if we move on to page 16, I think another
3 issue that appeared to be arising was financial issues.

4 MS TAIT: (Witness nods)

5 Q. If we scroll down, there's reference to a financial
6 package. When the children were placed the placement
7 system was different and it notes that there is now
8 a payment system in place reflecting the skills of the
9 carers and what level they are assessed at.

10 Ultimately I think the agreement was that the
11 department would pay level 2 fees in respect of the four
12 children and that amounted to nearly £58,000 per annum.

13 MS TAIT: (Witness nods)

14 Q. The carers seemed to be indicating that they had
15 financial issues, there were tax issues as well.

16 MS TAIT: (Witness nods)

17 Q. Again from your reading of the papers, was that
18 something that was a concern or not?

19 MS TAIT: I might let Emma come in. I think we recognised
20 that the task was huge for the female carer and that she
21 was going to need the support of her husband in order to
22 do that and we may need to facilitate that financially
23 to allow him to work less in order to be there and be
24 more present to support it.

25 So I think the review of the payments probably was

1 in and around that.

2 I don't know whether you want to add to that?

3 MS CLATER: So from the evidence that we've got within our
4 records, it looks like the foster carer fees and
5 allowances scheme was kind of introduced in 2001, so
6 that introduced a three-tier system. So when we talk
7 about 1998, that was prior to that being introduced.
8 And I think it looks a little bit hazier, a little bit
9 muddier, in terms of how we went about paying them, and
10 that's what -- when these fees then came in in 2001,
11 that was where we came to in the bottom paragraph there
12 says:

13 "It was agreed that the department would pay 4 level
14 2 fees ..."

15 So in 2001 we introduced a three-tier payment system
16 and it was based on experience, ability, training and
17 the length of time fostering. So all carers would enter
18 as a level 1 carer and would or would have the potential
19 to work up to level 3 carers, and it was very much about
20 their ability to manage some of the complexities of the
21 task. As I said, it was based on experience, ability,
22 training and length of time of fostering that would mean
23 that move through the system and that would affect the
24 payment system.

25 We no longer operate that system. We stopped in --

1 oh, I think it's 2017 or 2018.

2 MS TAIT: 2018.

3 MS CLATER: 2018, thank you.

4 And we now have an over-12s and an under-12s
5 approach. But that's what that refers to in terms of
6 the payment system.

7 MS INNES: If we can move on, please, to page 18, which
8 talks about some issues that you've already covered.
9 Towards the bottom of the page there's reference to
10 a publication by a Leslie Ironside talking about:

11 "The complex relationship between foster carers and
12 foster children. He describes the extraordinary state
13 of distress that can result from the experience of
14 fostering and what he calls 'living a provisional
15 existence'. Where foster carers feel locked in and
16 forced to parent in a way that feels contrary to their
17 hopes and ideals. Carers are not then in a position to
18 accept external support."

19 Then it goes on to the complexity of the task.

20 Is this a sort of formulation that you're familiar
21 with? That you've come across before?

22 MS TAIT: I'm not familiar with Leslie Ironside.

23 I recognise the description there and I think that --

24 and I've not worked within a fostering adoption team.

25 I think that was an element of what was happening here.

1 They'd set high expectations for themselves as carers,
2 claiming these four, wanting it to be akin to adoption
3 and actually now things were falling apart and
4 unravelling, and they were getting a lot of scrutiny at
5 individual points within that.

6 So how able they were as a couple to reflect on what
7 was happening within their family, what it meant for
8 their two children, and whether or not they felt they
9 could open the door to say: we are struggling, we're not
10 coping here, we need some support, I don't know, but
11 I absolutely recognise the description of that and
12 I don't know whether you've got --

13 MS CLATER: I would agree with that. I'm also not familiar
14 with Leslie Ironside, but the description taken from the
15 journal here very much describes what appears to have
16 been seen happening and could possibly explain why the
17 carers felt it so difficult to accept external support,
18 which in itself was a concern as well.

19 MS INNES: If we can move on, please, to page 21, we see
20 various changes implemented and recommendations. I'm
21 not going to go through these at this point, they're on
22 pages 21 and 22, but I think that you repeated those
23 recommendations in your section 21 response and provided
24 a further update as to implementation.

25 MS TAIT: (Witness nods)

1 MS CLATER: (Witness nods)

2 MS INNES: If we can look, please, at ELC-000002428 and
3 page 10, we can see under "Changes" at Case A, this
4 refers to the significant case review and the different
5 recommendations and you've highlighted what had been
6 done.

7 For example, unannounced visits being written
8 policy. And then children being present during their
9 reviews and being informed of decisions. You say:

10 "This is still the case, although some children
11 choose not to attend their review or come in for part of
12 it."

13 So it would be the child's choice.

14 MS CLATER: I was going to say I think one of the things
15 we've worked really hard on is that these are children
16 and young people reviews. These are not the
17 professionals' reviews. This is the child's review. So
18 we need to ensure that that's the lens that we do those
19 reviews through. We need to make children welcome at
20 it. We need to watch the language that we use and we
21 need to try and make them inclusive for children and
22 that can be really difficult, because some of the things
23 you can be discussing can be really distressing for
24 children, but then that's maybe I suppose a bit where
25 children maybe attend part of the review, not the whole

1 thing.

2 And obviously that's very much dependent on the age
3 and stage of the child.

4 Q. Okay.

5 You then talk about the children's rights officer
6 and you say:

7 "The worker was recruited and became involved with
8 children in foster care as well as in residential care.
9 Their involvement more recently has however tended to be
10 more with young people in residential placements due to
11 pressure on the service."

12 But from your evidence earlier, are there other ways
13 in which children can access independent advocacy or
14 something akin to what a children's rights officer would
15 do?

16 MS TAIT: So we have a Champions' Board, which is our
17 I suppose formal engagement structure for looked-after
18 and care-experienced children and young people. We have
19 younger children and older children involved with that
20 and some of those children will be in foster placements.
21 That's a place for them to come together to raise -- to
22 talk about their care experience, talk about what they
23 want and what they don't want, so Who Cares? Scotland,
24 we fund this, you know, play an important role within
25 that.

1 We do have a Who Cares? worker, who can work with
2 children in foster care. I think the submission's
3 right, they tend to focus on children in residential
4 care more so. But I think for children in foster care,
5 they're trusted adults, they're people that are there
6 for them to help them navigate through and understand
7 and stand up for them, will be people in their immediate
8 kind of team around the child in terms of their, you
9 know, any kind of family support worker that may be
10 working with them, with their teachers that might be
11 working with you or CAMHS workers.

12 So there will be a stronger existing network for
13 children in foster care than there often is for children
14 in residential care who would help that, but we also
15 have very clear expectations that social workers see
16 children and see them on their own, separate from being
17 seen with their foster carers, and that at each review
18 we have clear expectations of the child's voice will
19 be -- even if the child's not at the review, the child's
20 voice is at the review and we have a range of kind of
21 means of supporting how we bring that child's voice into
22 those sessions.

23 Q. One of the things you mentioned there was that there's
24 perhaps more support for foster children than there is
25 for children in residential care. One of the things

1 that we've heard from some applicants who have given
2 evidence is to do with the isolation of the foster care
3 setting, that they don't know other children in foster
4 care, they don't know who to speak to because of the
5 isolation of the setting.

6 MS TAIT: (Witness nods)

7 Q. Are the things that you've been referring to ways in
8 which you've tried to address that?

9 MS TAIT: Yes. So the Champions' Board is an opportunity
10 for looked-after and care-experienced children to come
11 together with other young people and they value those
12 opportunities. We recently had a leadership -- Columba
13 1400 leadership week away, where our young people were
14 able to come together and develop amazing leadership
15 skills over a week, so that really kinds of cements and
16 strengthens that --

17 LADY SMITH: Was that Columba 1400 you said?

18 MS TAIT: Yes.

19 LADY SMITH: Thank you.

20 MS TAIT: I do recognise the point, though, of children in
21 foster care. The children are more likely to be settled
22 in structured schooling and education placements than
23 sometimes our children in residential care, for whom
24 life may be more chaotic and less structured, so there
25 will be other parts and places.

1 We also have -- we're kind of developing our young
2 carer service. Obviously if these children are in care
3 they won't be having any current caring
4 responsibilities, but their birth mother or father may
5 well have disabilities or mental health or substance-use
6 issues which means they still feel they have a caring
7 role, because they may well be having a lot of contact
8 with their birth parents.

9 So the young carers service is certainly developing
10 at a pace in East Lothian. It would be another
11 opportunity to link them in, I think, with other
12 children and young people.

13 MS CLATER: I wonder if it's also worth mentioning that they
14 do get the option to join the Champs' Board and that's
15 all supported by Who Cares? Scotland, but some of the
16 support that Who Cares? Scotland offer is more national,
17 so there is the opportunity to link in with more
18 national support and I think a lot of children nowadays
19 get support through digital means, so be it online.
20 Obviously that in many ways is concerning in itself, but
21 there are safe ways of them getting support through
22 those methods and I think for some children and young
23 people that works. It's very much not a one size fits
24 all.

25 MS INNES: If we go on to -- well, we might be on page 11.

1 If we go down to the bottom of the page, the second-last
2 bullet point talks about assessments being competence
3 based for foster carers and a full re-assessment of the
4 whole foster family after 10 years in practice. You say
5 there:

6 "Assessments continue to be competence based.
7 However, it has not been the practice of late for full
8 re-assessments of the whole foster family to be carried
9 out after ten years. We are restarting this practice."

10 MS CLATER: Yes. I think that's one of our learning points
11 from this Inquiry has enabled us to do a very deep dive
12 into what our policies and procedures say and ensure
13 that we are compliant with it.

14 Interestingly, one of the assessment -- one of the
15 competencies is very much working as part of a team and
16 the expectation that carers work as part of a team. And
17 I think as we've heard this morning around Case A, that
18 has been problematic in the past so it feels like that's
19 a real improvement.

20 Q. Then I think one of the issues that was raised or
21 recommendations that was made was about essentially exit
22 interviews I think for children to receive feedback and
23 listen to them in relation to their experience in care.

24 Over the next page there are other recommendations
25 about assessment and approval of carers, so, for

1 example:

2 "After assessment and approval, the worker
3 undertaking the re-assessment should change and not be
4 undertaken by the current support worker, to ensure
5 objectivity."

6 So this re-assessment that you've reintroduced, this
7 would be done by somebody who is not known to the foster
8 carers?

9 MS TAIT: (Witness nods)

10 MS CLATER: It might not always be somebody who is not known
11 to the foster carer, but what we were seeing was that
12 foster carers often had the same worker for many, many
13 years and we've heard how, without that external
14 scrutiny, that actually can place children at risk
15 ultimately.

16 So we're often not seeing those long relationships
17 with workers now. So it might be that actually ten
18 years from when they were first approved, the new worker
19 would do that re-assessment, but that new worker could
20 have been working with them for a couple of years prior
21 to that. It just means that we're not -- it's not --
22 we're trying to guard against those very long
23 relationships and how, yes, it's really positive, but
24 also it can blinker, blinker you.

25 MS INNES: Because there's a -- well, some foster carers

1 have given evidence about their social worker changing
2 quite a lot and having difficulties with that and them
3 requiring to have a relationship with a social worker,
4 and you said that sometimes you had very long
5 relationships but you said I think in your evidence
6 a moment ago that more recently those had been shorter.
7 Is that because staff are moving on or because you
8 deliberately try to move the social workers so that they
9 move to new families and don't spend years and years
10 supporting the same family?

11 MS CLATER: I think it's more to do with turnover of staff,
12 actually, rather than a conscious kind of moving carers
13 around, because I do think -- I think it's a really
14 careful balance. I think you're right. You can't have
15 carers being supported by a different worker every week.
16 That's not going to work because our work is
17 relationship based. But there is that bit about
18 safeguarding really long relationships.

19 And some of that safeguard doesn't always come from
20 changing the worker as well, you know we have heard very
21 much about the role the team leader or the service
22 manager would play and that independency and that role
23 of being able to challenge that worker on: wait
24 a minute, what are we seeing here? But, yes, I think
25 it's more to do with the current climate I suppose in

1 social work at the moment.

2 Q. Okay.

3 We can see in the rest of that response the various
4 recommendations, as we've said, and what you have done
5 about them.

6 I want to move on from the significant case review
7 to Case B that you mentioned, in which there was
8 an independent report by a Mary McKenna. I wonder if we
9 could look, please, at ELC-000001674 and if we can --
10 well, if we first of all just look at the timing of it,
11 it was 18 November 2011, and this is the covering letter
12 to the social work department. The writer says that
13 she's discussed the content with the carers:

14 "... they understand that a panel is going to be
15 arranged."

16 In the next paragraph it says:

17 "They are giving consideration as to whether they
18 will resign and I have advised them they should put this
19 in writing to you. They understand that it is likely
20 that the next panel will recommend that they be
21 de-registered as foster carers."

22 Then there's reference to a potential meeting with
23 the then agency decision maker.

24 Then if we go on over the page, we can see the
25 report itself. If we scroll down to the purpose and

1 basis of the report, it says that it was commissioned by
2 the council for consideration at the fostering panel and
3 looking at their review.

4 Again, Judith, I think you're going to deal with
5 this report. What's your understanding of the context
6 of this report?

7 MS TAIT: So this came about because of allegations made
8 between 2008 and 2010, mainly by children who had since
9 moved from those carers but not entirely, so we're
10 talking within the realm of allegations of physical
11 abuse and emotionally abusive care and some
12 inappropriate care. Some of those allegations were
13 subject to initial inter-agency referral discussions,
14 investigation and police charges, which did not proceed
15 then in terms of a conviction.

16 So the context for this report is it's focusing
17 I think on the provision of foster care and on the
18 functions of the fostering panel and how that -- what
19 learning there was for the panel and for the service,
20 and whilst the needs of children and the reality for
21 those children is part of this, this wasn't
22 a child-focused piece of work. So it was
23 a carer-focused and service-focused -- that was its
24 purpose. I suppose it would just be important to
25 reflect that at the start.

1 Q. Okay.

2 If we look down to the bottom of the page, we can
3 see that under "Introduction" it looks like the carers
4 were registered in June 2004 and since then they had
5 cared for approximately 41 children:

6 "They provided substantive placements for seven
7 children for periods between 7 and 18 months and in
8 addition had provided regular support and respite
9 placements and a number of emergency foster care
10 placements."

11 It looks as though the vast majority of children who
12 were in their care were there for short periods of time?

13 MS TAIT: (Witness nods)

14 Q. If we can go on over the page to "preparation and
15 assessment", it appears that they'd been thinking about
16 adoption but then went down the fostering route.
17 There's reference to them attending preparation groups
18 at Scottish Adoption and due to difficulties in
19 committing with preparation group dates their assessment
20 was completed prior to attending Skills to Foster in
21 November 2004.

22 I'm assuming from what's said there that the Skills
23 to Foster is a preparatory course; is that right?

24 MS TAIT: Yes.

25 MS CLATER: Yes. So that would be our -- most of our

1 carers, whilst undergoing assessment to be foster carers
2 would also attend the Skills to Foster, which is about
3 thinking about -- giving more information around foster
4 care expectations. It's round about a six-week course,
5 a couple of hours a week, and certainly the course that
6 we have at the moment around that, we have
7 care-experienced young person coming along, talking
8 a little bit about their experience, and also carers
9 coming along who can talk about their experiences and
10 perhaps answer any questions that prospective carers
11 have and in many ways starts -- it contributes to us
12 starting setting the scene for carers around the culture
13 and expectations and around what foster caring for
14 children is really like and about.

15 Q. Okay.

16 As I say, their assessment here was completed before
17 their attendance at that course. Is there any issue
18 with that? Have you changed that in terms of current
19 practice?

20 MS CLATER: We -- ideally we like carers to attend that
21 before they are approved. The reality is that we don't
22 always have carers attending that course prior to
23 approval. The reasons currently for that would be
24 around a recruitment crisis and ultimately if we don't
25 progress after the assessment to then approving carers,

1 you're at risk of losing carers. And we have such small
2 numbers coming through that often we don't have the
3 number of carers to make that group viable, because
4 a lot of that group work is about learning from other
5 people, starting to make those networks of carers,
6 because quite often you'll find the carers who have been
7 in those groups together keep in touch and support each
8 other through that task, but it's not -- it's not
9 unusual.

10 And I suppose we have reflected on whether that was
11 problematic in this case. It may have thrown up
12 concerns, it may not. The sheer nature of it. I would
13 expect a thorough assessment to be sufficient to pull up
14 any concerns that we had.

15 Q. Okay. In terms of the issues about providing this
16 course, I suppose one might say you could co-ordinate
17 with neighbouring Local Authorities to provide certain
18 training prior to a foster carer being approved, but
19 I think you were saying that you really need to build up
20 local networks?

21 MS CLATER: Yes and no. We actually do. Ourselves and
22 Midlothian come together to put on this course, so it's
23 pulling workers from both Local Authorities. We still
24 find that we are in the same position, that we do not
25 have enough carers often to pull together a course

1 before people then go on to be approved. So the numbers
2 coming through for foster caring across two Local
3 Authorities still is low.

4 Q. Okay.

5 Geographically you're obviously not far away from
6 the City of Edinburgh.

7 MS CLATER: No.

8 Q. So would you co-ordinate with them in terms of provision
9 of training, for example?

10 MS CLATER: Historically we haven't, and I think because
11 Midlothian and East Lothian are quite small Local
12 Authorities it made sense to pool our resources in that
13 sense. Edinburgh are big enough that they probably have
14 enough -- they probably don't have a problem so much so
15 with numbers.

16 Do you want to say something about recruitment?

17 MS TAIT: I think it would be important to. We are in what
18 I would consider as a crisis in terms of fostering
19 recruitment and that's the message I hear when I'm part
20 of national networks. And we have ended up in
21 a situation where we're competing with neighbouring
22 authorities, who have budgets for recruitment campaigns
23 that we can't match or may have different approaches to
24 kind of setting some of the kind of payment levels and
25 obviously we've also got independent fostering agencies

1 as well in the mix there. So we have many children
2 living in East Lothian who are living with foster carers
3 that are not our foster carers. So it is a problem for
4 us and it's worsening, I would say, at the moment.

5 MS INNES: So that could be children who are with carers
6 from independent providers or, for example, children
7 maybe from the City of Edinburgh who have been placed
8 with carers in East Lothian but they're City of
9 Edinburgh carers?

10 MS TAIT: Correct.

11 Q. Okay.

12 Going on in this report -- sorry, just on that next
13 sentence, we see that the carers were approved as foster
14 carers and registered for two children over two years of
15 age at the fostering panel. I think that one of the
16 issues raised in the report was that that approval or
17 registration criteria was breached?

18 MS TAIT: I'm sorry, I don't have enough detail of that to
19 know where that came.

20 Q. Okay. If we look down this page it says that their very
21 first placement ... under their experience of fostering
22 it says their first placement was siblings of four and
23 one-year-old, so one child was below the age, but
24 obviously they were siblings.

25 It says:

1 "The placing social worker raised concerns about
2 a lack of empathy with the older child's distress,
3 inappropriate sanctions and difficulties in taking
4 advice and working with the department's plans for
5 children. There was an end-of-placement review where
6 these issues were discussed. They accepted they were
7 new to the role of fostering ... they were formally
8 reviewed and then their registration was varied to one
9 child over five years."

10 So there seemed to be changes in their registration
11 criteria.

12 MS TAIT: (Witness nods)

13 Q. But the very first placement didn't seem to meet the
14 criteria that they'd been approved for.

15 MS CLATER: I think quite often one of the issues with
16 fostering is about matching. What ideally you want is
17 to match a child to a carer who is within their approval
18 but also you just feel is a good match. You know,
19 around relationships, you suspect they'll gel, almost,
20 and that can be really, really difficult.

21 What we quite often find is that we have carers who
22 are available but not within the -- their registration
23 don't match the children that are looking for
24 a placement. And what you then end up is quite often
25 thinking about what we call stretches, so you're

1 stretching a carer beyond their -- or different from
2 their registration.

3 What we would expect at that point is that that's
4 fully discussed with the carer and that also the reasons
5 why they're not approved for that is understood, so that
6 we can therefore think about what will be the extra
7 supports that you will need to take this child. But it
8 would always be the carers are quite within their rights
9 to be saying: actually, no, that's not within my
10 approval and actually there's very good reason for that.

11 I think the fact that this was a first placement
12 raises some concerns.

13 MS TAIT: And I think that's what the report highlights,
14 that there were issues with matching. Children were not
15 well matched and there was poor compatibility with
16 existing placements. This couple were asked to take on
17 too much complexity. And that will be a risk when we
18 have -- I mean this is going back some time, you know,
19 11 years, but it's even more critical now in that we
20 simply don't have sufficient choice elsewhere. That
21 doesn't mean to say we can put those children at risk in
22 a placement, but not having options, not being able to
23 match is a problem for us.

24 Q. Okay. If we can look on towards the end of her report
25 at page 9, where she's undertaking some analysis and

1 she -- if we look at the paragraph towards the top of
2 the page which says:

3 "Annual foster care reviews of the carers were
4 considered at the panel but the reports prepared for
5 this did not comprehensively record key information
6 about events that had occurred the preceding year and
7 therefore did not enable the review panel to fully
8 consider the performance of the carers. The concerns
9 which emerged throughout their career were noted from
10 an early stage."

11 Then it says:

12 "Nevertheless from 2006 the panel extended and
13 varied their registration to take up to three
14 children ..."

15 Then it goes on from there.

16 There's an issue highlighted there about making sure
17 that the panel has all relevant information.

18 MS TAIT: Absolutely and there were some reports missing, so
19 there were some end-of-placement reports missing from
20 placing social workers when considering the couple back
21 at review.

22 I wonder if this might be the point, though, to say
23 that I think the narrative with this set of carers was
24 they had a strong voice and they had a loud voice.

25 Q. Okay.

1 MS TAIT: We had facilitated, allowed, enabled them to reach
2 a point within the fostering community of having quite
3 a lot of authority. The female carer chaired the
4 fostering forum and other carers, to be perfectly blunt,
5 on occasions were quite wary and almost frightened of
6 her. So she was very authoritative, ran that group
7 almost like a union, was their description, rather than
8 a support group, and I think that is one of those -- you
9 know, those barriers we talked about in the previous
10 case that took -- that became one of the leading --
11 maybe a way of fitting what we wanted into what they
12 were offering rather than actually seeing objectively
13 whether they were up to the task.

14 So there were again positive accounts from -- of
15 children thriving and improving in their care, but there
16 were also negative accounts of that. But her voice in
17 that was a strong voice and a loud voice and I think we
18 were -- we were led by that voice and not able to stand
19 back and say: is this good enough? We've got someone
20 who appears to be complying, who appears to be going to
21 training, but is she putting that into practice? Is it
22 good enough?

23 Q. So in that situation where you have a carer that has
24 a loud voice, as you've described, how do you deal with
25 that? How do you make sure that you're asking the right

1 questions and challenging where appropriate?

2 MS TAIT: I think it's similar to the previous discussion.

3 I think it's use of chronologies, so seeing the pattern
4 of events, the frequency, the extent and the reach of
5 those. Having supervision so that you've got some arm's
6 length scrutiny of and challenge to those assessments of
7 what is good enough.

8 I think we found here that we had workers presenting
9 a mixture of views, some saying things were positive and
10 then changing their mind about that and not quite
11 knowing how to challenge the carers.

12 So what didn't happen was that we regrouped around
13 saying: hold on, what is the totality of this
14 information telling us about the quality and the
15 standard of the care? And what do we do as a result of
16 that?

17 Again, we had good examples of each individual issue
18 was responded to in some shape or form, but not
19 a resetting and a: let's consider this in the round.
20 That didn't happen.

21 Q. Okay. Then it goes on to talk about issues in relation
22 to matching that you've already highlighted, including
23 the compatibility of needs of existing children in
24 placement with any additional placement. That seems
25 to -- the reviewer continues to highlight that. She

1 says that there were shortfalls in aspects of care, but
2 she thinks that they were asked to take placements which
3 were at time beyond their competence:

4 "Some children placed were incompatible with the
5 needs of existing children in placement and may have
6 contributed to subsequent disruption, East Lothian
7 Council have a shared responsibility for some of the
8 difficulties which emerged as a result of the
9 placements. I appreciate that such requests to take
10 children beyond registered numbers reflect the shortage
11 of resources available to the council, nevertheless the
12 consequences and the resulting stresses of multiple
13 placements cannot simply be attributed to the foster
14 carers."

15 MS TAIT: I agree.

16 Q. Again, was that accepted? Do you accept that as a valid
17 comment?

18 MS TAIT: (Witness nods)

19 LADY SMITH: I suppose that underlines that although, as
20 I think Emma rightly said, technically the foster carers
21 are always entitled to refuse to take children that
22 don't fit with the criteria specified in their
23 registration, but I've heard from foster carers that you
24 just feel under pressure to take a child.

25 MS TAIT: (Witness nods)

1 MS CLATER: (Witness nods)

2 LADY SMITH: And you really can't say no, even although it
3 means you have more than you should have or children of
4 an age group that you shouldn't have or you're taking
5 them actually not just for an emergency placement but
6 for something that's going to go on for months.

7 MS TAIT: All of those are true, and I think -- and the
8 ultimate responsibility for placing lies with us as the
9 Local Authority.

10 These carers also thought they were able to do it
11 and I think that probably wasn't accurate either. So
12 I think that's another factor in this.

13 But yes, we know we have carers who say yes and
14 we're having to make that on-balance decision: is this
15 going to be good enough? Or am I causing more risk of
16 disruption, not necessarily abuse or harm but just will
17 it hold? Can I support it enough to hold to give that
18 child a life in a family because at the moment some of
19 the alternatives are residential care for some quite
20 young children.

21 LADY SMITH: Yes.

22 MS INNES: If we can move on to page 10, we see the lessons
23 and learning that she highlights.

24 The first of those being in relation to foster carer
25 reviews, and she highlights particular issues that she

1 thinks need to be covered. Has that been implemented by
2 the Local Authority?

3 MS TAIT: Yes.

4 Q. Then the next bullet point is in relation to managing
5 allegations and investigations and she says:

6 "Dealing with allegations sensitively and
7 efficiently is one of the biggest challenges in foster
8 care currently. This case illustrates the lengthy and
9 cumbersome procedures involved in resolving such issues
10 and the number of agencies and individuals concerned."

11 Then she notes the involvement of the carer in the
12 foster carers' forum and the impact of the investigation
13 across the fostering community and matters raised after
14 that.

15 MS TAIT: (Witness nods)

16 Q. In terms of this issue, are you able to explain a little
17 bit more what she was referring to there?

18 MS TAIT: I think the time frame -- so this report was
19 written or finalised in around the November, but there'd
20 been also an independent report had gone to the
21 fostering panel in about the kind of meantime. So for
22 those carers, they will have felt under scrutiny, they
23 were probably part of police investigations anyway and
24 felt under scrutiny for quite an extended period of
25 time. The clarity of our intentions, the purpose

1 that -- the remit of those investigations I think
2 probably wasn't communicated as clearly as it should
3 have been to the carers. Whether they had a person for
4 them during all of that time.

5 I think what was driving that was a genuine
6 commitment to be open and transparent and to make sure
7 we understood the department's role and how to take next
8 steps. I think it was for the right reasons, but it
9 probably went on too long and it -- because she was well
10 known, that then probably became well known and would
11 have put added pressure on in terms of other carers
12 hearing about it.

13 Q. Okay.

14 I'm going to move on from that report.

15 I just want to check whether there was anything else
16 you wanted to say about it. Judith?

17 MS TAIT: Thank you. In fact it's relevant for this but
18 it's probably more relevant for the 2008 case. We were
19 reflecting in the break that I suppose the legal
20 framework now for keeping brothers and sisters together
21 is stronger and clearer, so whilst I'm not saying that
22 puts children at risk, the expectation that we protect
23 those sibling relationships is now enshrined in
24 legislation, so it's another driver for us thinking how
25 can we do that, how well can we do that, and another

1 factor I thought it would be helpful just to highlight.

2 Q. Okay.

3 In terms of your reflections on and response to the
4 evidence led during this case study, I think you
5 mentioned already in your evidence, Judith, that you'd
6 been able to attend the hearings and see some evidence
7 that was given. I don't know whether you've been able
8 to look at any of the other evidence that we have
9 identified as being relevant to East Lothian.

10 For your reference, at tab 3 of the folders there's
11 a list of four applicants and a foster carer whose
12 evidence has been given to the Inquiry. I don't know
13 whether you've had an opportunity to hear their
14 evidence, either when it was given or look at the
15 transcripts of the evidence or their statements yet?

16 MS TAIT: No, I'm sorry, we haven't.

17 Q. Is that something that you'd be able to do?

18 MS TAIT: Absolutely.

19 Q. And perhaps feed back through your representative any
20 response to that evidence.

21 MS TAIT: I am aware of one of those names, because we have
22 had a request -- or a number of requests to check our
23 records and that the change of name of this person was
24 what led to some confusion. You know, we would be
25 willing to meet with this person and take him through

1 what we have. We don't have contact details for him,
2 but we certainly would be happy to go back, review that
3 and present something in writing if that would be of
4 help.

5 Q. I think that's 'John' you're referring to? He has the
6 pseudonym 'John'?

7 MS TAIT: Yes.

8 Q. Thank you.

9 I'm going to move back to your Part B response at
10 ELC-000002428, page 2.

11 Maybe if we just look at the first question there,
12 so acknowledgement of abuse, 3.1(a) asks if the Local
13 Authority accepts that children cared for in foster care
14 were abused. I think the answer to that will be yes?

15 MS TAIT: That's correct, yes.

16 Q. I think, Judith, you wanted to read an apology?

17 MS TAIT: Yes.

18 Q. If you'd like to do that now, thank you?

19 MS TAIT: As Chief Social Work Officer for East Lothian
20 Council I want to take this opportunity of expressing my
21 sincere apologies on behalf of the council and in
22 particular the council's Chief Executive to each person
23 who suffered abuse as a child or a young person whilst
24 in foster care in East Lothian and for those who
25 continue to experience the adverse impact of this trauma

1 in their day-to-day lives.

2 Participation in this process of Inquiry has already
3 provided important learning for me and my colleagues at
4 all levels within children's social work and this has
5 impacted on our practice. I hope and I expect that
6 further lessons will be learned, which will be of
7 benefit in ensuring that our children are safely cared
8 for in foster care in the future.

9 Q. Thank you.

10 MS TAIT: Thank you.

11 Q. If I can go back to Part B of your response. If we can
12 look at 3.2(a) on page 5 where you're being asked if the
13 Local Authority accepts that its systems failed to
14 protect children over the relevant period from abuse,
15 and obviously we have your response there. It refers to
16 the significant case review. Do you accept that systems
17 failed to protect children?

18 MS TAIT: For the children that we've been able to talk
19 about and identify the complaints and for those that we
20 were -- you know, founded those experiences, yes, our
21 systems failed to protect those children referred to.

22 Q. Then in terms of the response to abuse on page 8, again
23 I think -- well, it goes from page 7 on to page 8. It's
24 asking whether the Local Authority accepts that there
25 were any failures and/or deficiencies in its response to

1 abuse or allegations or abuse, and again what's the
2 Local Authority's response to that?

3 MS TAIT: I think there were indeed some instances when the
4 response to the allegations of abuse were not quick or
5 robust enough in securing the child's safety.

6 Q. Just in terms of any other matters that you wanted to
7 cover in terms of lessons to be learned or changes to be
8 made, I don't know whether you've -- I know that you
9 have some notes with you and if there are issues that
10 you want to raise that you've learned either from the
11 section 21 process, your recent review of that or the
12 involvement in this process, then please tell us?

13 MS TAIT: Okay. Some of these I think may well have been
14 covered, but I think it might be useful to do them
15 together.

16 I suppose the over-arching one is that children have
17 experienced harm, despite having good policies and
18 procedures and having skilled and committed staff. So
19 the possibility of things going wrong remains and we
20 need to be ever watchful for that.

21 And the responsibilities of our practitioners to
22 exercise their professional judgement safely is
23 critical, and it's our responsibility as an authority to
24 enable and facilitate that.

25 I think we have learned that we must forever have

1 a strong and stronger commitment to having the child's
2 voice at the heart of all we do and be able to
3 demonstrate that robustly. We know from other case file
4 auditing that it isn't always visible that the child's
5 voice is present. When I speak to my staff, they're
6 doing it, I know they're doing it and I can see it in
7 parts of the record but it's not always there as evident
8 as we would want it to be, so we need to strengthen
9 that. And we've built that into other performance and
10 care governance framework in terms of measuring
11 ourselves against some of those.

12 I think the introduction of the independent
13 reviewing officer role and the financial commitment to
14 having that as a service has been important learning for
15 us and it's sometimes an uneasy relationship between
16 those who chair the reviews, who don't necessarily
17 always agree with those who manage the social workers
18 whose case it is and we will, reasonably frequently,
19 have to debate the fact that the reviewing officer is
20 saying: that's not good enough for that child. That's
21 taken too long for you to get this plan to this point.
22 That's exactly what we need them to do, that's what
23 they're there for, to provide some external support and
24 challenge.

25 Separating the roles and responsibilities of the

1 placing social worker with the supervising social worker
2 for the carers is really -- you know, underpins all of
3 our structures and our practice now and that has been
4 a very clear learning for us.

5 Ensuring we have robust, arm's length supervision
6 arrangements and that we are not overloading our team
7 leaders in carrying cases to cover for vacancies, which
8 is one of the risky areas that allows them to be distant
9 enough from the case to be able to see those patterns
10 and provide that challenge.

11 Better auditing, record keeping of carers' files and
12 children's files. We learnt a lot from the work we did
13 for this Inquiry. We should have known some of that
14 anyway if we were auditing some of the records and
15 collating the findings from those audits maybe more
16 regularly.

17 I think we've spoken earlier about the clarity in
18 recording of complaints or allegations that are dealt
19 with within the child protection framework compared with
20 those that are dealt with within the service framework
21 and recording the decision making around those in
22 a clearer and more formal manner.

23 Ensuring we build in and we seek and expect the
24 views of other key stakeholders in all aspects of the
25 assessment and the planning for children. Particularly

1 around children who are younger, who find it more
2 difficult to have a voice or in particular those
3 children with disabilities who are the most vulnerable
4 of the children that we will have accommodated.

5 And I think probably better at evidencing formal
6 apologies and following up on criminal injuries,
7 payments, recognising our role in making that happen for
8 children when sometimes it drops off the list of things
9 to do, but actually recognising the importance of
10 apologising and -- you know, when I came to listen to
11 the read-in statement, I wanted a chance to say sorry to
12 that person and I'm not sure entirely that the poor
13 experience of foster care was East Lothian -- I think it
14 may well have been Edinburgh, but nonetheless
15 an opportunity to formally apologise for people's
16 experiences is really important and I think we need to
17 make sure we record that and do that better.

18 Q. Yes. I think when you have an opportunity to look at
19 the transcript of an applicant who gave evidence with
20 the pseudonym 'Rachel', one of the things that she said
21 in her evidence was that a generic apology isn't enough.
22 It's not what's being looked for, that it needs to be
23 individual, and that then can have an impact.

24 MS TAIT: We do some of that through our subject access
25 requests in facilitating people to come through and see

1 their records and how we take them through that, but
2 I think there's national learning in recording and
3 how -- so Emma's part of a working group that's looking
4 at how we record in a way that preserves that record.
5 It belongs to the child, really, and when they become
6 an adult if they wish to see that we need to make sure
7 that what we've written is written in a way that is
8 respectful, that is clear, that is understanding, that
9 facilitates their healing really into the future from
10 whatever their care experiences might have been. So
11 there's probably big work to be done nationally, but
12 certainly locally, in terms of our records.

13 MS INNES: Emma, is there anything that you wanted to add to
14 the points that Judith has made?

15 MS CLATER: I don't think so. I think Judith's very much
16 covered it all, very in depth.

17 MS INNES: Okay, thank you. I don't have any more questions
18 for you.

19 There are no applications, my Lady.

20 LADY SMITH: Thank you. Are there any outstanding
21 applications for questions?

22 Judith, Emma, thank you so much for the hard work
23 that you have devoted both to the council's written
24 response that's so helpful to us but in coming here
25 today and plainly having done your homework beforehand.

1 That's been very evident to me, as is the careful
2 thought you are giving to the issues that we've
3 uncovered so far in the Inquiry regarding the provision
4 of foster care.

5 Thank you so much for that and all the assistance
6 you've given us this morning.

7 It's Friday, and I'm now able to let you go and
8 hopefully have a more restful afternoon than your
9 morning has been. Thank you.

10 MS TAIT: Thank you.

11 MS CLATER: Thank you.

12 (The witnesses withdrew)

13 LADY SMITH: I think we should take the lunch break now,
14 Ms Innes, and we'll sit again at 2 o'clock.

15 MS INNES: Yes.

16 Thank you, my Lady.

17 (12.50 pm)

18 (The luncheon adjournment)

19 (2.00 pm)

20 LADY SMITH: The last Local Authority we turn to this week
21 is West Dunbartonshire and the witness is ready,

22 I think?

23 MS INNES: Yes, my Lady, it's Lesley James.

24 LADY SMITH: Thank you.

25

1 Lesley James (affirmed)

2 LADY SMITH: How would you like me to address you? Ms James
3 or Lesley, what would work best for you?

4 A. Lesley's absolutely fine, my Lady.

5 LADY SMITH: Thank you for that, Lesley.

6 The red folder on the desk there has documents from
7 your council, West Dunbartonshire, in it, and thank you
8 to you and the council for providing those. We'll also
9 bring documents up on the screen as we're discussing
10 various parts of them with you in the course of your
11 evidence. You might find it helpful to use the screen
12 or the folder or neither, whatever works for you.

13 A. (Witness nods)

14 LADY SMITH: Otherwise, if you have any questions as we're
15 going through your evidence or any concerns, please
16 speak up. Don't sit silent on anything that's worrying
17 you.

18 If you want a break at any time, that's not
19 a problem. I usually take a break in any event at about
20 3 o'clock, so you can bear that in mind, but let me know
21 if anything else would help.

22 A. Okay.

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

25 A. Yes, absolutely fine. Thanks, my Lady.

1 LADY SMITH: Thanks, Lesley.

2 Ms Innes.

3 MS INNES: Thank you, my Lady.

4 Questions from Ms Innes

5 MS INNES: Lesley, can I start by asking you your date of
6 birth?

7 A. Yes, date of birth is [REDACTED] 1966.

8 Q. You've provided a copy of your CV to the Inquiry and
9 it's in the red folder. You tell us there that you are
10 currently Chief Social Work Officer and Head of Service
11 for Children's Health, Care and Justice Services which
12 are delivered by the Health and Care Social Partnership
13 within West Dunbartonshire?

14 A. That's correct.

15 Q. You were appointed to that role in December 2021?

16 A. That's right.

17 Q. You tell us a bit about your background and experience.
18 Am I right in thinking that you qualified as a social
19 worker in 1989?

20 A. I did, yes, August 1989.

21 Q. You worked initially in a variety of settings. Then
22 I think you went to East Ayrshire and worked there from
23 May 2001 to February 2006 initially?

24 A. (Witness nods)

25 Q. Is that right?

1 A. It is, yes.

2 Q. In that role you were working in statutory children's
3 social work services?

4 A. Yes. I've worked in statutory social work services
5 since qualifying in 1989.

6 Q. Okay. And there was a period when you were
7 an independent social worker but linked to East
8 Ayrshire? Or was that still within East Ayrshire?

9 A. I was independently contracted by East Ayrshire in
10 relation to adoption assessments at the time.

11 Q. I see.

12 Then in February 2006 you moved to become
13 an assistant manager with South Ayrshire Council?

14 A. That's correct.

15 Q. That included chairing child protection case
16 conferences?

17 A. That's right.

18 Q. I think you were then promoted to being a senior manager
19 with South Ayrshire in May 2012?

20 A. That's correct.

21 Q. You remained there until 2018, when you moved to
22 Falkirk Council?

23 A. That's correct.

24 Q. There you had a role as a senior service manager and you
25 were Deputy Chief Social Work Officer?

1 A. That's correct.

2 Q. You were there from February 2018 up to December 2021,
3 when you moved to your current role --

4 A. That's right.

5 Q. -- at West Dunbartonshire, okay.

6 Over the time that the Inquiry has been looking at
7 foster care and preparing for this case study, you were
8 at Falkirk at the time that section 21 notices were
9 being sent out. I just wondered whether you had any
10 involvement in the preparation of that section 21
11 response when you were at Falkirk or is that something
12 that you weren't involved in?

13 A. No, I wasn't involved directly. There was some
14 identified individuals, a service manager within my
15 service area that was identified in the completion of
16 the submissions at that time in Falkirk.

17 Q. Obviously from that timing we know that you weren't
18 involved in the preparation of the West Dunbartonshire
19 response.

20 A. No, I wasn't.

21 Q. So I think that obviously in preparation for giving
22 evidence to the Inquiry I think you've familiarised
23 yourself with the response --

24 A. (Witness nods)

25 Q. -- and the underlying work that went into it?

1 A. Yes, I've familiarised myself with the response. I've
2 gone through that in detail, and have spoken to
3 colleagues who were obviously involved directly in the
4 submission.

5 Q. Thank you.

6 If I can start by looking at a couple of things in
7 the response, if we could look, please, at WDC-000000009
8 and page 1, and this is just talking at 1.1(a) about the
9 predecessors of West Dunbartonshire Council. Obviously
10 the immediate predecessor was Strathclyde, it was part
11 of Strathclyde Region. Prior to that I think you tell
12 us that it was Dumbarton County Council was the relevant
13 authority at the time?

14 A. That's correct.

15 Q. Okay. If we can look at numbers of children in foster
16 care to give us some idea of what that looked like in
17 West Dunbartonshire over the more recent period, if we
18 can look at WDC-000000420, page 2. There we can see
19 numbers from 2006/2007 up to 2020 in terms of foster
20 carers and then placements.

21 If we look first of all at foster carers, the
22 numbers there sort of vary between the late 20s,
23 early/mid 30s. Is that foster carer households or
24 individual foster carers, do you know?

25 A. My understanding is it's foster care households.

1 Q. Then placements at 31 March of each of these years, is
2 that numbers of children placed?

3 A. Yes, it is numbers of children is my understanding.

4 Q. These would be in foster care placements with West
5 Dunbartonshire carers or --

6 A. Yes, these are specifically West Dunbartonshire Council
7 foster care placements and I did clarify that, because
8 it was a follow-up matter from the original submission,
9 just to clarify the numbers, I think, from West
10 Dunbartonshire Council.

11 Q. If we look at page 1 of this document, we see the
12 current placements as at 2 February 2022, which is when
13 this follow-up query was being addressed and there we
14 see that the internal placements are 55, so is that 55
15 children in internal placements?

16 A. That would be placements, yeah.

17 Q. Then you have 55 what's described as "private foster
18 placements (external)". Can you explain what's included
19 within that figure?

20 A. Yeah, external placements would be any commissioned
21 placements by the council, by West Dunbartonshire
22 Council. So that would include any private fostering
23 provision that had been commissioned using fundamentally
24 the Scot Excel framework.

25 Q. When you say private fostering, are you meaning

1 fostering with an independent agency?

2 A. Yes. I think it's wrong -- it's quite ambiguous in
3 terms of calling it private fostering. So just for
4 clarity, those are commissioned placements.

5 Q. Okay. You mention that includes a short-term mother and
6 baby placement, so does that mean that 55 -- two of the
7 55 are a mother and baby?

8 A. The parent or carer would not be considered in those
9 figures --

10 Q. I see.

11 A. -- but the child would be.

12 Q. I see, okay.

13 In terms of the number of carers that there are in
14 West Dunbartonshire currently, do you have a figure for
15 that? How many foster carers you have?

16 A. In the previous list in the appendix 9 it states for
17 2021 we have 34. In relation to the numbers of specific
18 carers, I couldn't comment beyond what we have on the
19 screen at the moment.

20 Q. Okay, so it was 34 in 2020/2021 and you don't know
21 beyond that --

22 A. Carer households.

23 Q. Carer households, sorry, okay.

24 I want to move on and ask you about the approach
25 that was taken to responding to the section 21 notice.

1 If we can look, please, at WDC-000000412, this is
2 a letter to the Inquiry dated 11 February 2022. If we
3 go down to the bottom of the page there is reference to
4 your original response saying that you didn't have
5 access to files prior to 1960 and you say that West
6 Dunbartonshire do hold records from 1960, but additional
7 records are maintained in the Mitchell Library.

8 Do you know, were those accessed or not during the
9 time that the section 21 was being responded to?

10 A. My understanding is that records from the Mitchell
11 Library were accessed and our submission goes on to
12 identify the number of files through 1930, 1940 and 1950
13 in terms of how many files were accessed from the
14 Mitchell Library.

15 Q. Okay. So we see the numbers on the top of the next page
16 and are these numbers of children who were in foster
17 care over these dates or were they just all children in
18 care, do you know?

19 A. I think that's where the ambiguity and difficulty arose
20 in the preparation of some of the submissions for this
21 period. So not all of the files were in any -- in fact,
22 I'll start that sentence again. The identifiers of what
23 type of care was being provided or the reason for the
24 child's record was not stated, so this was a large
25 number of files and it was unclear whether these related

1 to foster care or any other kind of provision.

2 Q. Okay. It talks about in assessing what you had in your
3 records section, admissions books were looked at,
4 a manual list was pulled. Then it says:

5 "The records section then merged what they held
6 manually from known information and aligned this with
7 the information that they were able to achieve from the
8 Mitchell Library."

9 Then it says:

10 "This allowed potential matches to be pulled for
11 formal reviewing."

12 If we look down the page towards the bottom of this
13 page we see the decades with number of records pulled
14 from the archives and then it says "none relevant for
15 study".

16 In 1950 we see -- well, 1950 it has at the top of
17 the page 1,804 files and then down at this stage it says
18 three records pulled from the archives, none of which
19 were relevant because they weren't foster care files.

20 I wonder if you can give us more of an explanation
21 or clarification as to how records were being selected
22 for review?

23 A. So the information officer who was part of the, I
24 suppose, team around the submission had identified 1,804
25 records in the archives for 1950. Often in terms of

1 then either dates of birth, names, and then the
2 cross-referencing exercise that then took place from the
3 manual records held by WDC, West Dunbartonshire Council,
4 there was often lack of clarity as to whether or it
5 really couldn't be identified whether the child or the
6 child's records related to foster care.

7 So of that quite sizeable number, my understanding
8 that only three records were identified as potential
9 foster carers, and on further examination it was
10 identified that these were related care situations, what
11 we'd know as kinship today.

12 Q. Okay, right.

13 The same pattern in terms of response is repeated in
14 relation to the next decades. So 1960, eight records
15 pulled, one carer evaluated for the study. Does that
16 mean that only one of the eight records was in relation
17 to foster care?

18 A. That is not my understanding. So in discussion with the
19 senior manager who was leading this part of the
20 submission, eight foster care records were appropriately
21 identified, and in accordance with the methodology
22 around 10 per cent sampling from each of the
23 identifiable records, one case record was then audited.

24 Q. Okay. We'll come back to another document in which you
25 refer to that sampling.

1 Then if we look at 1970, 34 records pulled, one
2 carer formally evaluated for the study. Now, it's
3 Friday afternoon so my maths might not be that good, but
4 I'm not sure that's 10 per cent.

5 A. No, it's not 10 per cent. The question that you are
6 raising, Ruth, we also discussed with the managers
7 involved in compiling this to really understand some of
8 that granular detail as to why three records from that
9 decade were not taken.

10 I think in terms of clarity about what was
11 specifically identifiable as foster care records,
12 I understand they were, but why only one record was
13 sampled from that decade, I think it would be fair to
14 say that I think people were unclear in retrospect why
15 only one was taken.

16 Q. Okay. But then I suppose if we look on to the 1980s, 32
17 records were pulled and nine carers were identified and
18 formally evaluated, so a greater proportion was taken
19 there.

20 A. (Witness nods)

21 Q. It then goes on, 1990, 27 records were pulled, five
22 carers formally evaluated.

23 In 2000 to 2014, 147 records were pulled and nine
24 carers formally evaluated for the study.

25 I assume that in the more recent period, 2000 to

1 2014, you wouldn't be going -- or they wouldn't have
2 been going to the Mitchell Library for those records,
3 those would have been held by West Dunbartonshire
4 Council?

5 A. That's correct.

6 Q. Then it goes on to tell us that additionally there were
7 nine extra carers considered where it was known that
8 an allegation had been made or was known to staff
9 involved in the study. Can you tell us about that?

10 A. Yes. So again in some detailed conversation with those
11 involved in the submission, that the audit sample that
12 we have just gone through did not identify within the
13 available records issues in relation to any concerns or
14 potential harm or abuse of children.

15 In the interests of transparency and I suppose to
16 help the focus in relation to the Inquiry, the
17 organisational memory was then used to pull a wider
18 sample from those audited records and seven carers were
19 identified within that additional sample.

20 Q. When it says nine -- it says nine extra carers, do you
21 mean seven fostering households or --

22 A. I believe it was seven fostering households.

23 Q. I see.

24 If we can move on to WDC-000000411, which sets out
25 a plan for the file audit. This seems to be a document

1 prepared by the Local Authority at the time of the audit
2 to say what it was that they had decided to do in
3 relation to the audit.

4 They say that having consulted with other colleague
5 Local Authorities and stakeholders in the west of
6 Scotland and nationally they decided to adopt the
7 following methodology. The first bullet point is:

8 "We will read a sample of 10 per cent of all
9 fostering files for each decade back to 1930."

10 That was the 10 per cent that you mentioned a moment
11 ago.

12 A. (Witness nods)

13 Q. Do you have any idea why it was decided that 10 per cent
14 was a suitable sample?

15 A. I'm sorry, I suppose I can't comment further in terms of
16 the rationale, you know, given at the time other than
17 what has been detailed in relation to the submission
18 from my predecessor Chief Social Work Officer at that
19 time in terms of consideration of a 10 per cent sample.

20 Q. Then it looks as though file readers were allocated to
21 read these files and they had to complete templates that
22 were prepared by whoever was in charge of the project,
23 potentially your predecessor?

24 A. Yes. My predecessor and the two senior managers at that
25 time produced a template to support a kind of

1 standardisation of the audit of records, both foster
2 care records and associated children's records.

3 Q. Have you had access to those templates, completed
4 templates, in preparation for your evidence?

5 A. I did access some of the manual records, not all of
6 them. I have seen the templates completed in relation
7 to all the audited foster care records and the template
8 used.

9 Q. Okay. If we go on over the page to page 2, under the
10 heading "Auditors" it talks about auditors reading
11 across the foster carer file and associated children's
12 file and then it says:

13 "The core enquiry team will collate the information
14 and provide the collated response to the Inquiry."

15 I assume from that that the core inquiry team took
16 the information from the templates and then fed that
17 into the response that was made to the section 21
18 notice?

19 A. That's my understanding, yes.

20 Q. It says under "Summary":

21 "While this process is primarily being undertaken to
22 assist the Inquiry, we would be hopeful that there may
23 be benefits in reading the files, particularly the more
24 recent sample, in improving practice locally for
25 children who are looked after away from home and in

1 respect of the provision of safe and sustainable local
2 foster placements."

3 It talks about a summary document being made
4 available to all staff on completion of the file reading
5 stage of the process.

6 Do you know if that was done? Has there been
7 follow-up with staff following the completion of the
8 response?

9 A. At this point there has not been the distribution of
10 learning to staff. I'm very keen and committed that we
11 use this as an opportunity to take forward the learning
12 that was undoubtedly gleaned from a fairly comprehensive
13 review of a number of carers' records, particularly the
14 records that were considered and possibly more of
15 a reflection on current practice over the last 15 years
16 that were sampled, to support our learning within WDC
17 and so that staff are also sighted in terms of that
18 improvement.

19 Q. Okay.

20 I'd like to move on to look at Part D of your
21 response and to the material that was gleaned from the
22 file review that you've described. This is at
23 WDC-000000010, page 61. The question, 5.1(a) asks what
24 was the nature of abuse seen in the files.

25 The answer is that there were instances of domestic

1 abuse, neglect, physical abuse, sexual abuse and
2 emotional abuse and it's noted that physical
3 exploitation wasn't noted in the files read, so that's
4 the outcome of the file reading.

5 Then it goes on to say in terms of extent:

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

8 "From the cases read, no systemic abuse of children
9 within foster care was noted. Cases where abuse was
10 noted were unconnected, with abuse in most cases having
11 been addressed within the existing procedures at the
12 point abuse became known or was subsequently disclosed."

13 From your review of the material and the response,
14 do you have any reflections on the answer to that
15 question?

16 A. I do. I would just, I suppose, like to clarify I think
17 there is certainly a degree of ambiguity in terms of the
18 first part of the first sentence, in terms of no
19 systemic abuse of children. And in discussion with the
20 senior manager who was leading the completion I think
21 had interpreted this and clearly stated there was no
22 related or link between the carers who had been
23 identified who had abused children in the additional
24 sample of records considered, and I suppose that's one
25 interpretation of maybe systemic abuse.

1 However, I think in terms of reflection and looking
2 at a wider system in which children were safeguarded
3 within care, that there are areas, both in terms of
4 policy, practice standards and quality assurance, that
5 we need to continue to make sure are appropriately in
6 place, which undoubtedly have strengthened over the
7 years, but we need to keep up that focus and ensure the
8 practice standards that we would expect are met and
9 quality assurance is an absolute key in areas to ensure
10 that those standards are adhered to.

11 Q. In terms of the number of complaints identified, at the
12 bottom of this page, 5.2(c):

13 "How many complaints have been made in relation to
14 abuse in foster care?"

15 It was 21 complaints from the cases read.

16 If we go over the page to page 62, we see that those
17 complaints were against 10 individual foster carers, of
18 which six were couples. So that was the number of
19 complaints that you found in the file review.

20 A. Yes, that's correct. So the 21 complaints or
21 allegations were across seven carer households, and
22 obviously some repeat concerns and/or complaints
23 identified in each.

24 Q. Okay. Then you say that you don't have any knowledge of
25 any convictions in any cases, but you say at 5.2(f) in

1 relation to the question, "How many foster carers have
2 been found by the Local Authority to have abused
3 children?" And five of the ten carers identified were
4 found by the Local Authority to have abused children in
5 their care.

6 When it talks about "a finding", is that a finding
7 at de-registration panel or a finding at a child
8 protection case conference?

9 A. Again, I think "finding" would for me be the clarity of
10 that, because again considering this myself in terms of
11 reviewing the information, it certainly wasn't based on
12 a criminal threshold.

13 Q. No.

14 A. And really on the balance of probabilities,
15 an investigation that was carried out, then it was
16 believed and established that it was understood that
17 abuse had taken place.

18 Q. Okay. If we look down a little at 5.2(j), it was noted
19 that in two separate cases two children had made
20 allegations against another child in placement. In one
21 case this was a sibling, and in another the son of the
22 foster carers. That was the conclusion in relation to
23 that, but I'm not sure that the Local Authority --
24 sorry, if we look over the page to page 63, at
25 page 5.2(l) it says:

1 "One allegation was unsubstantiated and no further
2 action taken. In the other case, the sibling case, the
3 abuse was considered to have taken place, the young
4 person concerned had a significant learning disability."

5 That was the extent of the findings in relation to
6 any abuse in respect of other children in placement.

7 A. Yes, that's right.

8 Q. If we look down a little on this page at 5.3 in terms of
9 the timing of any disclosure or complaint, at 5.3(a)
10 it's noted:

11 "In most cases these were made proximate to the
12 abuse occurring. However in some cases the disclosures
13 were in respect of historical events."

14 If we look at 5.3(c) it says that the allegations in
15 relation to sexual abuse tended to be later as opposed
16 to having been made at the time.

17 A. Yes. That is what I've taken from that part of the
18 submission. So we would see retrospective disclosures
19 from children and/or slightly young adults in terms of
20 their experiences.

21 Q. Okay.

22 Then if we move on to 5.5 on page 64, you're asked
23 there about external investigations and it's noted there
24 that there was one external investigation commissioned
25 by the Health and Social Care Partnership in respect of

1 the circumstances and required outcomes for one couple
2 specifically, and this was in November 2013.

3 If we can look, please, at WDC-000000417, I think
4 this is the practice notes following fostering review
5 and I understand this was carried out by a person called
6 Janice West?

7 A. That's correct. Just to clarify, it would not have
8 been -- it would have been West Dunbartonshire Council
9 in 2013 prior to the Health and Social Care Partnership
10 commissioning this piece of work.

11 Q. So it would have been the Local Authority that would
12 have commissioned it? Okay.

13 It tells us in the first paragraph:

14 "While reviewing the future role of a couple as
15 foster carers a number of issues relating to the process
16 of work emerged which weren't directly relevant to the
17 review itself but did have a bearing on the overall
18 efficacy of the fostering service. It was agreed that
19 these issues should be reported upon separately to the
20 service manager as a means of further developing the
21 service and support offered by this team. The following
22 observations are offered as part of that developmental
23 process."

24 It looks as though Ms West has carried out perhaps
25 a wider review or a more in-depth review of this

1 household and what needed to be done, but the purpose of
2 this note is to highlight issues for practice as opposed
3 to just for this couple?

4 A. Well, I think the report which first of all I'd want to
5 acknowledge, I think, in terms of 2013, I think touches
6 on some really good aspects and relevant points of
7 learning and it not only looks at the circumstances and
8 the context in relation to Mr and Mrs T as carers, but
9 does make quite a bit of commentary and then
10 recommendations around the wider system.

11 Q. Okay. If we can look through this then, the first
12 section is about post-assessment procedures and it notes
13 that issues were identified within the initial
14 assessment, including in relation to potential
15 difficulties that the couple might experience in terms
16 of boundaries and working with agency personnel.

17 A. (Witness nods)

18 Q. So issues appear to have been identified right at the
19 start in this case.

20 A. Yes, that is, I think, clear from this report and the
21 reflections that are contained within the assessment
22 information that there was some issues around the
23 capacity for the couple to work maybe appropriately or
24 constructively with the agency.

25 Q. It says:

1 "While a contract was made with them, it seems to
2 have been dealt with as an administrative process rather
3 than an opportunity to establish a clear professional
4 relationship between the foster carers and the
5 supervising social workers."

6 We obviously know that people enter into foster care
7 agreements. Is that what she's talking about here, do
8 you know?

9 A. Yes, my understanding of this report -- and again
10 further discussion with my senior manager who looked
11 after children's services, who has only been in post
12 himself three years, so wasn't around when this was
13 commissioned -- I think it focuses on a really important
14 point, that a contract given to foster carers at the
15 point they're approved from panel should be clear about
16 the focus of the ongoing support, training needs,
17 strengths, areas for development as opposed to being
18 a transactional contract between the Local Authority and
19 the carers around payments and some of the more
20 practical aspects.

21 And I think the point that's made is it's absolutely
22 appropriately made.

23 Q. It then goes on to say:

24 "There does not seem to have been a formal process
25 of acknowledging with the carers the areas for

1 development identified and clarify how these would be
2 worked with over the coming months."

3 So in the assessment process, areas for development
4 were immediately identified and she seems to be saying
5 those weren't then taken forward or dealt with?

6 A. That would be my reading of this report, that although
7 maybe appropriately this identified in the assessment,
8 but maybe identifies a disconnect between the assessment
9 process, the discussion at panel, and then the ongoing
10 supervisory relationship with the worker, who would be
11 supporting the carers.

12 Q. Then she sets out her comment where she talks about the
13 agency perhaps considering "the introduction of a clear,
14 consistent process of engagement with families following
15 approval as carers". She suggests that might require
16 additional paperwork, it's not just about
17 practicalities. It talks about maybe two workers
18 meeting with carers to revisit the approval decision and
19 clarity around setting agency expectations. She says:

20 "The 2009 regulations assume that this contract will
21 be an ongoing working document rather than a one-off
22 event."

23 Would you agree with that observation?

24 A. Broadly I would agree with it and I think it's back to
25 the contract being more an a transactional piece in

1 terms of practical arrangements. I think it should be
2 the starting point of identifying aligned to the
3 registration itself in terms of age group of children
4 and so on, back to the original assessment, what are the
5 strengths? What are the weaknesses? What are the
6 training needs? What are the development needs of this
7 individual carer or couple as a carer? So the contract
8 should be used in a bit more of a meaningful way and set
9 that out.

10 Q. Do you know if the Local Authority took on board this
11 recommendation, and, if so, how did it implement it?

12 A. What I can say is in terms of the recommendation from
13 the specific report I can't say there is a direct
14 correlation to what is in place now and this
15 recommendation, but that the contract that is issued to
16 carers absolutely makes links and references to the
17 assessment, the strengths, the areas where the carers
18 are registered for a particular fostering task and the
19 ongoing training expectations and requirements.

20 Q. As you've been saying, it's not just about the document
21 and as she says, it needs to be about talking to the
22 carers about ongoing development needs. Is that
23 something that you do?

24 A. Yes. That is built into the supervising social worker's
25 role and I think the report goes on to talk about a bit

1 more of a move away was recommended around that kind of
2 link carers' role, again quite transactional, quite
3 practically focused, to actually what is the engagement
4 work focus of that supervisory responsibility.

5 Q. So if we go on over the page we'll see reference to
6 that.

7 LADY SMITH: I see that the text allows and you allow to the
8 possibility of the supervising social worker being the
9 same person as did the initial assessment. Is that okay
10 or are there potential difficulties with that?

11 A. I suppose there is an opportunity, my Lady, I think
12 again part of the maybe checks and balances I will refer
13 to in the system. It may strengthen that independence
14 or quality assurance if that was a separate worker who
15 would then take on the ongoing supervisory component
16 separate from the initial assessment, because I think
17 then you potentially lose some objectivity. It's not
18 100 per cent that that would always happen, but I think
19 again it's an area that would help to separate out.

20 LADY SMITH: Yes, I can see that. Thank you.

21 MS INNES: If we go on to page 2, we can see the issue you
22 mention there that is addressed in the report about the
23 foster carer's social worker being called the link
24 worker. She says:

25 "This tends to create a liaison approach to the role

1 and is reflected in many of the entries in the case
2 record where the contact with the carers seems to be
3 characterised by keeping in touch rather than direct
4 professional interventions."

5 She says that perhaps the name should be changed to
6 supervising social worker, as it's clearer as to the
7 role, and she says:

8 "As a supervisor, the social work role is more about
9 ensuring that standards are met whilst also monitoring
10 ongoing developmental needs."

11 Did the Local Authority adopt that change of name?

12 A. Yes. The supervising social work role is in place and
13 my understanding that that changed in 2016.

14 Q. In the comment, she again talks about it not being clear
15 from the case recording about the level of direct work
16 that was being undertaken, brief entries focusing on
17 practical issues.

18 "If reflective supervision was taking place with the
19 foster carers, the lack of any detailed recording means
20 that there was nothing available to assist individual
21 workers or their supervisors in establishing
22 a development plan for the carers or to assist with
23 their ongoing review process."

24 Then she says:

25 "There are also significant gaps in the case entries

1 at times which seem to suggest that the level of
2 involvement with the carers was in direct relationship
3 to the perceived level of difficulties in the placement.
4 When things were quiet, visits tended to tail off.
5 There is evidence in the literature on retention of
6 foster carers to suggest that carers value the
7 opportunity to build effective relationships with their
8 supervising social worker as a means of support."

9 There are a few things within that.

10 First of all, it really goes back to supervision and
11 case recording about that, so making sure that
12 supervision is happening and that you're recording what
13 you're doing.

14 A. Absolutely.

15 Q. Is that something that's in place now?

16 A. Yes. I would say very much that that has been
17 significantly strengthened over the past number of
18 years.

19 I think there's more to do and I think it is about
20 that reflective supervision being in place, looking at
21 ongoing development needs, using chronologies with
22 carers to look and identify where there are some maybe
23 patterns around placements, both in terms of the
24 achievements but also when things have been more
25 challenging and difficult to then ensure you're getting

1 the training needs appropriately identified and their
2 support, and that relational-based approach, so it's not
3 just turning up when there's points of crisis. It's
4 about having those ongoing opportunities for dialogue
5 and development.

6 Q. I suppose if you're only turning up at points of crisis,
7 that's because somebody's alerted you to the crisis as
8 opposed to you making contact and speaking to the carers
9 when, to the outside world, things might be looking
10 okay.

11 A. Yes. It is about having that established routine
12 planned contact with a focus, not about, as I say,
13 turning up when they need help or to drop off a cot or
14 money or those very practical things. And I'm not
15 saying that's what people were doing, but reading the
16 report, certainly I take from it that there wasn't the
17 focus that there needed to be around that constant
18 support/development of carers in terms of their
19 fostering responsibilities.

20 Q. Then in the next section it goes on to talk about
21 registration categories and it talks about the initial
22 assessment of carers involving a discussion about
23 placement categories for which the applicants are
24 considered suitable. It often takes quite a lot of time
25 in the assessment process, she says. In this particular

1 case it says there was an agreement reached that they
2 wished to be considered for up to three children in the
3 age group 5 to 12 years.

4 "There seem to have been a number of reasons for
5 this decision ..."

6 That was approved and then it says:

7 "... of the 28 children placed with the family, only
8 nine sat fully within their registration category.
9 Sometimes they had children placed whose ages did not
10 match and on other occasions they had more than three
11 children."

12 Going outwith their registration criteria, is that
13 an issue?

14 A. Sorry, just to clarify, are you asking is that an issue
15 today or is that an issue --

16 Q. Is it something that you'd be concerned about?

17 A. I think again there are more -- much more in the way of
18 scrutiny around any variation to registration and it is
19 subject to much more review, and part of my role is
20 around agency decision maker and sign off in relation to
21 both carers who are registered and approved, but also in
22 every instance where there is a proposal that a child
23 requires to be placed outwith registration, then as
24 agency decision maker I would approve or not that
25 decision before a child would be moved, and the

1 expectation and the standard that we have set is that
2 that must be considered and back at panel within
3 12 weeks if the child remains in placement.

4 LADY SMITH: Are you telling me that in every case where the
5 proposal is to place a child or children that would take
6 the foster home beyond its stated criteria in the
7 registration, it has to be referred to you for decision?

8 A. Yes, it comes to the agency decision maker and I know
9 there is provision in the legislation that you can do
10 that on an emergency basis up to three days, but the
11 ADM -- the expectation I have and have had in other
12 areas that the agency decision maker would approve or
13 not, so that we have oversight in relation to any
14 variation.

15 LADY SMITH: In your Local Authority you are --

16 A. Yes.

17 LADY SMITH: -- the Chief Social Work Officer is designated
18 as the agency decision maker; is that right?

19 A. Yes, that's correct.

20 LADY SMITH: Thank you.

21 MS INNES: Over the top of the next page at page 3, I think
22 we see that at the time that this report was being
23 prepared the Local Authority had no procedures for
24 systematically identifying and reviewing breaches of
25 approval categorisation, so it sounds as though that was

1 a gap at the time and she describes it as being
2 potentially very hazardous but that seems to be
3 something you've now dealt with in terms of having
4 a procedure in place?

5 A. Absolutely. The procedure is clearly in place and
6 I suppose what I would comment, just -- I don't think
7 it's fair or appropriate in terms of children being
8 placed and it's not fair particularly for carers who are
9 maybe having children placed that are outwith their
10 either skill set or to support and manage effectively.

11 So for all those reasons, any variation to
12 registration needs to be subject to approval by ADM and
13 then viewed by panel if it's continuing.

14 Q. At the bottom of this page we see her comment in
15 relation to this issue and she says:

16 "While accepting the fluid nature of placement
17 decision making and the constant scarcity of resources,
18 it does seem important that where it is deemed necessary
19 to breach agreed categories this should be adequately
20 supported and scope given to the carers to voice any
21 concerns that they may have about this new situation.
22 It would seem that discussions were on the whole
23 confined to practical matters such as equipment,
24 clothing, et cetera. Apart from the obvious issues this
25 raises about the overall performance of the carers and

1 their abilities to fully meet the needs of the children
2 in their care, it also reinforces a perception in the
3 carers that they are the primary decision-makers for the
4 children."

5 It says that that, in this particular case, created
6 an unhelpful dynamic in the overall relationship with
7 the agency. Do you have an understanding of what she's
8 talking about there, the impact on the relationship with
9 the agency?

10 A. Can you give me a second just to review the paragraph?

11 Q. Yes. (Pause)

12 A. I suppose I would read just from that commentary that
13 she's offered that the decision would have seemed to lie
14 too much with the individual carers about whether they
15 received a child as opposed to being regulated by the
16 agency.

17 Q. But nonetheless she says that it was important that the
18 carers should have a voice as to whether they accept it
19 or not and we've heard evidence from foster carers over
20 the course of this case study who say, you know,
21 particularly when they're dealing with children on
22 an emergency basis, I think some people have described
23 it as emotional blackmail, that they feel under pressure
24 to take children even if it's outwith their approval.

25 A. Yes. And I would -- you know, I suppose it's that each

1 foster carer should and will say or can say whether they
2 are feeling unequipped or unable, for whatever reason,
3 to support a child in placement.

4 So, yes, a carer should have a voice, but equally
5 I would say there'll be scenarios where some carers
6 might be really helpful and agreeable, but that doesn't
7 mean the quality of care would necessarily be assured,
8 because it's really not been fully regulated or
9 considered by the placing authority.

10 Q. That's why it's important that a process is in place to
11 approve that?

12 A. Yes.

13 Q. If we go over the page to page 4 there's a discussion
14 about managing underlying assumptions and there's
15 a discussion about the carers I think taking a child who
16 they were unable to -- they didn't have the ability to
17 meet the needs of that young person.

18 If we look down to the comment, it talks about there
19 not being a mechanism for checking out the exact nature
20 of the carers' understanding of the situation. It says:

21 "Assumptions seem to have been made about the true
22 level of skill and understanding held by the carers in
23 terms of meeting the needs of a complex young woman.

24 The assumptions made by the family centre around their
25 confidence in understanding the needs of a 16-year-old

1 young woman based on their own experiences as parents."

2 It then says:

3 "The social workers seem to have taken for granted
4 that as foster carers the family would understand what
5 was required of them."

6 There's a couple of things within that.

7 The carers' assumption that because they were
8 parents they could look after a foster child
9 appropriately.

10 And the social workers' assumption that because they
11 were foster carers they would know what to do.

12 A. Yes, and I suppose it does relate to the previous point
13 that was just made about the carers' confidence and
14 belief that because they had experience of being parents
15 and that had equipped them and they had the necessary
16 skills to deal and support a child -- this particular
17 child, age 16. It's not clear whether this was outwith
18 the boundaries or the kind of requirements set down in
19 terms of their registration, in terms of assuming care
20 of this child, so I suppose it emphasises the point that
21 although they may have been accommodating and happy to
22 have this child placed and felt that they could support
23 this child, that actually the assessment, the skills
24 their needs as carers and their -- you know, their
25 capabilities as carers to manage this 16-year-old needed

1 to be absolutely part of that picture and consideration
2 before that decision was made.

3 Q. If we move on to page 5, we see a heading,
4 "Communication issues". It essentially says that there
5 is an absence of clear formal processes to establish
6 patterns of communication. Both workers and carers seem
7 to have adopted styles of communication that work for
8 them and are not necessarily effective overall.

9 It then talks about communication within the
10 fostering team, I think, so it says that there is:

11 "... information being passed on by workers about
12 perceived deficiencies on the part of the family but
13 there is very limited information to suggest that these
14 issues are discussed directly with the carers, far less
15 that remedial plans are put in place. There is also on
16 record an email from a social work assistant at the Vale
17 office listing a series of concerns, many of which are
18 historic and therefore can't be usefully addressed many
19 months later."

20 It then says:

21 "This pattern of indirect communication created
22 a situation where any issues being raised with the
23 carers took place some time after the actual event and
24 often not being discussed by the person with direct
25 experience of what had happened. This created frequent

1 differences of opinion as to what actually had
2 happened."

3 She seems to be highlighting issues about
4 communication in relation to concerns that were being
5 raised and at the comment she talks about there being
6 a lack of clarity about respective roles and
7 responsibilities of different workers. Would that be
8 between the child's social worker and what was then
9 called the link worker?

10 A. Yes. And I suppose reading through this communication
11 section in terms of trying to pinpoint specifically what
12 maybe the wider issues are that are being referred to,
13 I think it's twofold, so I think it's about how matters
14 were in terms of concerns of children were raised and
15 dealt with, both within the Fostering and Adoption team
16 and them not being dealt with timeously, but there is
17 also an unhelpful dynamic that is maybe referred to in
18 the commentary or maybe "dynamic" is the wrong word,
19 practice, let's say, that the placing social worker may
20 be raising concerns expecting that the link worker or
21 supervising social worker was addressing them, but
22 actually there would be no reason particularly that that
23 direct communication could not happen between the
24 placing worker and the foster carers as part of their
25 ongoing dialogue and support to the child in that wider

1 care plan.

2 So I think it exists across teams and potentially
3 within the foster care team itself.

4 Q. In the comment, as you've identified, it indicates
5 I think there that the placing worker was perhaps aware
6 of the issue, passed it on to the link worker. The link
7 worker was then saying something which was then
8 perceived as a reprimand by the carers, but also because
9 the link worker hadn't been involved, the carers could
10 simply say, "Well, that didn't happen", and they
11 wouldn't be able to challenge them effectively?

12 A. Yes, so you would have almost that three-way
13 unhelpful -- bit of a stalemate, if I can use that
14 expression, where actually concerns weren't being
15 effectively addressed. The supervising worker wasn't in
16 that supervisory meaningful role with the carer, and
17 potentially the placing social worker raising concerns
18 that became historically not dealt with timeously and
19 kind of felt like nothing was happening.

20 So I suppose I'm extracting that from reading this
21 commentary kind of nine years on around just some of the
22 dynamics of communication, both internal to foster care
23 teams and between the relationships of placing teams and
24 foster care teams, and some of that will undoubtedly,
25 I would suggest, be part of some of our system, to

1 a lesser or greater extent. I don't know if we've fully
2 eradicated that.

3 Q. Yes, I was going to ask: how do you combat that? How do
4 you try to eradicate that?

5 A. Currently within my organisation I think one of the
6 small ways that can really help is teams not being as
7 necessarily as disparate, as separate, and we're looking
8 at a move of integration, of co-location of teams. In
9 itself it is not -- it's part of a solution, but
10 building communication, shared understanding, improved
11 dialogue has got to be part of that.

12 So I think within my own agency just now, albeit
13 I don't particularly recognise the commentary that is
14 laid down here as being representative of the practice
15 in West Dunbartonshire currently, I think there are
16 still steps we need to take to improve the kind of joint
17 working and how joined up the teams are between placing
18 workers and foster care workers, and probably not helped
19 by a pandemic over the last sort of two and a half years
20 as well.

21 Q. I think she goes on on page 6 to talk a bit more about
22 effective team working, but that's not just related to
23 within the social work department, that's related to the
24 carers being part of the team around the child.

25 A. Yes. She talks quite eloquently I think just in terms

1 of rooting this within that Getting It Right For Every
2 Child approach and the carers being a meaningful
3 contributor to that team around the child, that their
4 voice is also part of those conversations, that their
5 understanding of the child's needs who has that --
6 should have that really fuller understanding of the
7 child's lived experience can be and should be part of
8 those discussions, and I think we need to continue to
9 strengthen that through a GIRFEC-based system that we
10 have.

11 Q. If we go on to page 7, there are various conclusions and
12 recommendations and she talks about:

13 "It was difficult to form a clear view of the
14 strengths and weaknesses of the family because there
15 were so many aspects of their journey that hadn't
16 conformed to standards of practice."

17 She talks about there being an opportunity to look
18 at processes and procedures. She talks about the
19 importance of supervision that you've already emphasised
20 in your evidence. And then checklist of action points,
21 if we scroll down, she talks first of all about
22 examining all documentation in relation to foster care
23 support against regulatory requirements, so essentially
24 reviewing all policies and procedures, I think?

25 A. (Witness nods)

1 Q. Do you know if that was done or, from what you said
2 earlier, is there a lack of clarity as to how these
3 action points were taken forward?

4 A. I would just, I suppose, emphasise that in terms of
5 exactly how this report was used by the agency in 2013
6 and beyond I really cannot give any -- any detail or
7 I don't have any evidence to say what happened with it.

8 What I can comment on, having reviewed in some
9 detail looking at the agency's current practice, policy,
10 practice and expectations within the fostering context,
11 that that has improved significantly from what is
12 identified in this report. Just even in terms of
13 standardisation of documentations, in terms of
14 assessment frameworks, BAAF frameworks and AFA that are
15 used and just the -- I suppose as I talked about earlier
16 in terms of tightening up of process and considerations
17 around any variation to registrations, improvements in
18 supervising social workers, contact with carers and the
19 expectations around that, improvement in training
20 opportunities and looking at learning needs for carers.

21 So having gone through this in a bit of detail
22 around how that is within my own service, having come
23 into post 11 months ago, I'm confident that much of that
24 has been significantly strengthened.

25 Q. For example, if we go on to page 8 at the second-last

1 bullet point there's reference to establishing more
2 effective case recording to ensure that there are
3 chronologies, that information going to annual reviews
4 is improved, and do you think that those things have
5 been done?

6 A. Yes, I think we've got more work to do around the active
7 use of chronologies within the fostering service and
8 probably the wider service, so that's not something --
9 and I think it's been a challenge for lots of areas to
10 really -- is that meaningful analysis of your
11 chronologies and using that as part of your ongoing
12 assessment and support function.

13 We -- I have this year since coming into my role
14 within West Dunbartonshire have commissioned
15 an independent chair of our fostering and adoption
16 panel, which previously was not independent to the
17 organisation. And I've also created a number of
18 additional posts in terms of independent reviewing of
19 children's planning arrangements.

20 So again for me it is about strengthening some of
21 those quality assurance process and building on some of
22 the improvement work that's already taken place.

23 LADY SMITH: Just going back to the chronologies, I should
24 tell you I've heard many people sitting in the witness
25 chair that you're sitting in now telling me that they've

1 realised chronologies are really important and either
2 practices have changed or are about to change in
3 relation to them.

4 A. (Witness nods)

5 LADY SMITH: What is it that chronologies are so valuable
6 for? Tell me.

7 A. Chronologies help the practitioner to be able to
8 identify patterns and themes of what either is happening
9 for the carers or issues around children placed. So
10 I think there needs to be clarity about what goes into
11 a chronology, and we can have a bit of a -- sometimes
12 a circular argument about people's interpretation of
13 what's relevant of chronology can be inconsistent.

14 Absolutely a chronology is not about the business
15 processes going on around the child or the carer, and
16 sometimes they can be too business focused -- and I am
17 going to say that about panels, about Children's
18 Hearings, et cetera -- but don't actually tell you
19 what's going on around the actual care or the lived
20 experience of children.

21 So I think it's about really strengthening the
22 consistency of what goes into a chronology for, say,
23 foster care services, and the expectations of that
24 analysis and having points where it's almost that pause
25 at your annual review stage, reviewing your chronology,

1 what's it telling you? What are the areas for further
2 development? Is there emerging themes about numbers of
3 children placed where there have been either concerns or
4 issues that have been identified? And these are the
5 kind of things I would want to see much more frequently
6 chronologies used in that way.

7 It is a challenge, but we need to find ways of
8 strengthening and improving them.

9 LADY SMITH: That takes me to my next question and I think
10 I know how you're going to answer this. When you're
11 talking about chronologies and it being challenging to
12 complete them, am I right in thinking you're saying:
13 this isn't go back through the child's file for the last
14 year and then make up a chronology. The recordings need
15 to be as contemporaneous as possible. Am I right?

16 A. Yes. Because I think the risk, (a) they become a bit
17 meaningless and become a bit of a bureaucratic exercise
18 if we've got practitioners going back to populate
19 a chronology to satisfy a process, and actually they
20 need to be completed, as you say, on a contemporaneous
21 basis to help us understand a bit more of the analysis,
22 what's going on around this household for these
23 children.

24 LADY SMITH: Thank you.

25 Ms Innes, is that a good point to take the afternoon

1 break?

2 MS INNES: Yes, my Lady.

3 LADY SMITH: If it would work for you just now, Lesley,
4 we'll take the afternoon break for a short time and then
5 finish your evidence after that.

6 A. Perfect.

7 Thank you, my Lady.

8 (3.08 pm)

9 (A short break)

10 (3.22 pm)

11 LADY SMITH: Are you ready for us to carry on, Lesley?

12 A. I am, yes, thanks.

13 LADY SMITH: Thank you very much.

14 Ms Innes.

15 MS INNES: Thank you, my Lady.

16 Lesley, I know that you've been given a note of two
17 witnesses who gave evidence to the Inquiry which are
18 relevant to West Dunbartonshire.

19 I know you've had an opportunity to look at the
20 transcripts of their evidence.

21 The first person I wanted to ask you about is
22 an applicant with the pseudonym 'Janet' who gave
23 evidence on Day 318, 19 August 2022. 'Janet' was
24 a person who was in foster care in the West
25 Dunbartonshire area.

1 I wondered if you had any reflections on 'Janet's'
2 experience?

3 A. Yes, I did read 'Janet's' witness statement and it
4 didn't make particularly pleasant reading.

5 I suppose my sense of it was that the statement was
6 very measured. It seemed to me to be very credible in
7 terms of her account, of her experiences. I do think
8 I'm not clear exactly -- and I know from her statement
9 that she was in care from the age of six with her
10 sibling group and remained there, I think, until she
11 pretty much left school and made a decision herself to
12 take herself out of that foster care situation, but
13 described to me what was a bit of just an ongoing fairly
14 difficult household environment where she did not feel
15 supported. I certainly didn't get a sense that she felt
16 loved, and didn't describe many positive experiences,
17 noting that she didn't have any holidays or day trips,
18 and her memory of her time in care was in relation to
19 having to really perform a function of much of sort of
20 domestic household chores, washing dishes, making her
21 own tea, walking the dogs in the morning, et cetera.

22 So I got a real flavour just from her statement of
23 what her lived experience probably felt like from her
24 time in care and just really got to a point as
25 a teenager I think where she made a decision that she

1 couldn't continue to be there and moved in to supported
2 accommodation, but that again, in terms of that
3 transition for young people into adulthood when you
4 don't have that network of support or family backing can
5 be really challenging, so although initially got
6 supported to get set up, didn't really have much in the
7 way of support around her to -- for that to be sustained
8 over any period of time.

9 So I think my only I suppose reflections and
10 thoughts were that our expectations -- and I'm not
11 saying this is right -- and the kind of thresholds of
12 what we'd consider are an appropriate quality of care by
13 carers has very much for the better changed over the
14 decades, and that probably many young people, rightly or
15 wrongly, might have had similar experience around some
16 of the expectations around domestic chores, et cetera,
17 and a lack of warmth in that household that came across.

18 So whether, you know, on reflection we would
19 consider that then to have been abuse as such and how
20 that matter should have been addressed, she didn't have
21 a lot of visits from her social worker, I read. I think
22 she commented she'd seen him once after being in
23 placement for quite some time and he seemed to appear
24 when there was either an issue or a move was required.
25 So again you think you need to question what were the

1 checks and balances and oversight in 'Janet's' care
2 arrangements, the review arrangements that were in place
3 for her, the relationship with her social worker who
4 placed her there.

5 Q. Okay.

6 The other person whose evidence that I wanted to ask
7 you about was a witness with the pseudonym 'Rosa', who
8 gave evidence on Day 333, 6 October 2022.

9 I think again you've had an opportunity to look at
10 the transcript of 'Rosa's' evidence and possibly her
11 statement as well?

12 A. Yes.

13 Q. We know that she was a social worker with West
14 Dunbartonshire Council and the period during which she
15 was a social worker I think was May 2006 to
16 December 2008. Obviously you weren't employed by the
17 Local Authority at that time. Were you able to speak to
18 anybody else who worked for the Local Authority around
19 that time to address some of the issues that 'Rosa'
20 raised?

21 A. I did make some enquiry with my senior manager team, one
22 of whom had been with the authority since 2013, and
23 maybe offered some view of who she believed the employee
24 may have been.

25 However, beyond that in terms of any detailed or

1 anything I can add to just the picture or the authority
2 at that point, there's really not much else I can say.

3 Q. In 'Rosa's' evidence, one of the issues that she raised
4 was the culture within the office and she felt that that
5 impacted on child protection practice, that she wasn't
6 able to professionally discuss certain things.

7 From what you say, you obviously can't comment on
8 what the culture was like at the time, but I wonder if
9 I can ask you about the wider point, ensuring that the
10 culture in the office is one in which there can be
11 professional discussions about the possibility of abuse.

12 A. Yeah. I mean I think organisational culture is hugely
13 important, as is, you know, having the again policies,
14 procedures, whistle-blowing policies in place where
15 employees are finding that they have reached a bit of
16 a dead end if they're raising concerns with their
17 respective manager or colleagues and not feeling that
18 they're being listened to. We need to have the
19 mechanisms in place to allow employees to speak out and
20 to raise concerns where appropriate.

21 I think the organisational culture around kind of
22 setting the expectations, the practice kind of values,
23 the standards is really important and I got from reading
24 the witness statement that she was, I suppose, doing
25 a bit of a contrast, compare and contrast from

1 experience in another authority area and what she viewed
2 the culture with coming into West Dunbartonshire
3 Council.

4 So again I take seriously in terms of my role in
5 making sure that we have got the right things in place
6 around the context for the organisation to allow that
7 support to be available. And where it's not available,
8 that people know what they need to do.

9 Q. Then one of the other issues that was raised in her
10 evidence was particularly in relation to sexual abuse,
11 and she felt that workers weren't alive to the
12 possibility of sexual abuse and were in fact resistant
13 to the possibility that a disclosure of sexual abuse
14 would be made.

15 Again, I know you can't comment on what it was like
16 at the time, but how do you ensure that social workers
17 are alive to the possibility that sexual abuse might be
18 occurring, to recognise when it might be occurring and
19 to deal with any disclosure that might be made?

20 A. Yeah, I think that's -- it's that -- you know, that
21 enquiring position that social workers need to have
22 about not defaulting to a position of optimism within
23 the organisation or within their practice, and need to
24 consider, you know, what the -- again it's back to that
25 analysis. What helps you to make analysis of things

1 that are going on, that are maybe outwith not a direct
2 disclosure of abuse but other signs and symptoms or
3 issues that are presenting that there needs to be both
4 the recording and then the evaluation, the analysis, the
5 understanding of when abuse could be happening to
6 a young person and being kind of alert to that
7 possibility.

8 Q. Is that something that you feel that current employees
9 are aware of?

10 A. Yes, I would say that we do have that in place, yes.

11 Q. She also mentioned that a disclosure had been made by
12 a young person and I think you had a look at that. Did
13 you have any reflections on that?

14 A. I felt -- I found the statement a wee bit confusing to
15 follow in relation to her relationship with the young
16 person. My understanding from the statement given that
17 she had left the employment of the Local Authority,
18 seemed to have contact with the young person several
19 years later, but again there was a lack of clarity of
20 whether the young person -- how old the young person was
21 and what lines of communication remained open between
22 her and the young person that she referenced.

23 I was also a bit unclear in terms of the allegation
24 that she claimed to hear from the young person, how that
25 discussion had come about, and then she I think went on

1 to talk about the case conference activity and her place
2 in that in terms of initially I think being invited to
3 attend and then that being withdrawn.

4 So I suppose I was a bit confused and not clear in
5 my own thinking, having read through the statement,
6 about some of the aspects of that, how that relationship
7 and connection either happened or was maintained, and
8 then lack of clarity about the age and stage of the
9 young person, who I believed had some learning
10 difficulties, was potentially thought to be 12, but
11 potentially older and in an adult-supported environment,
12 and then the subsequent case conference activity, if it
13 was an adult, again it wouldn't be considered in terms
14 of an abuse allegation within an adult -- it wouldn't be
15 in a child protection context.

16 So I found some of that a bit puzzling.

17 Q. And it was obviously anonymised as well, so you couldn't
18 identify who the person was to be able to look at any
19 files, for example.

20 A. Yes.

21 Q. I want to move back to your section 21 response and to
22 Part B of that response. This is at WDC-000000010, at
23 3.1. The first question is:

24 "Does the Local Authority accept that over the
25 relevant period any children cared for in foster care

1 were abused?"

2 I think the answer to that is yes, is it?

3 A. The answer is yes. I think we need to consider, knowing
4 and reflecting on what we know about care systems, the
5 vulnerabilities of children within care systems, the
6 developing legislative and practice picture over
7 decades, we need to be open to the fact that absolutely
8 children may have been abused whilst in care, and whilst
9 we may take every step to mitigate and manage that
10 risks, that we need to make sure that we have the
11 appropriate, as I say, quality assurance and practice in
12 place to eradicate, if possible, if not completely
13 eliminate.

14 Q. At the end of this answer to 3.1(a), it says:

15 "Some children in foster care placements made
16 allegations of abuse. These were a very small minority
17 of cases. Where abuse was alleged in these cases, this
18 can be attributed largely to foster carers' own lack of
19 understanding or abilities, rather than training."

20 That seems to be suggesting that the responsibility
21 is largely due to the foster carer and not to do with
22 the Local Authority? Am I misinterpreting that?

23 A. Well, I suppose I wouldn't accept that statement that's
24 been provided in the submission in full and I do think
25 there is a wider system issue that we need to take

1 recognition of beyond individual carer responsibility.

2 I think the -- the point that individuals and
3 abusers abuse children, not systems, is true. However,
4 the care system around children has responsibilities to
5 ensure that we, where possible, make sure that no child
6 should be exposed to harm or abuse whilst in our care.

7 Q. Then if we go on to question 3.2 at page 2, where the
8 question is whether the Local Authority accepts that its
9 systems failed to protect children over the relevant
10 period from abuse, and the answer to that is that the
11 Local Authority doesn't accept that there was a systemic
12 failure to protect children in foster care.

13 I think from what you've been saying, you have some
14 reflections on that?

15 A. Yes, and I suppose as I indicated in an earlier
16 question, I think from discussion with senior managers
17 and the team who supported -- sorry, the submission,
18 interpretation of "systemic" I think was not fully
19 focused on the wider system issues of the care system,
20 and I do think we would acknowledge that through the
21 context, the legislative context, the practice standards
22 and expectations at different times from 1930 to 2014,
23 that there has been some system issues in terms of --
24 that would have contributed to children who have been
25 subject to harm or abuse.

1 Q. Then over the page on page 3, the second paragraph says:

2 "Our systems are aimed at ensuring that no abuse is
3 experienced by children in our care and foster care.
4 However, it is accepted that for a variety of reasons,
5 a system can still generate some negative outcomes based
6 on unknown quantities and random factors."

7 I don't know if you can explain to us what that
8 means or whether it's something that you feel should
9 have been phrased differently?

10 A. Yes. I mean when I read this part of the submission, it
11 seems to be very unquantifiable variables are outwith
12 our control. I think as I've stated and my previous
13 comment that I've provided, I think we absolutely know
14 an awful lot about the things that are within our
15 control within the system that we can minimise and we
16 can prevent carers coming into care for children where
17 there is a higher likelihood that they may well end up
18 exploiting or abusing a child in their care, both from
19 an assessment and a registration -- in terms of coming
20 in as a carer in the first place, but then the
21 subsequent checks and balances and assurances that we
22 need to have in place to make sure children are safe and
23 protected.

24 Q. Okay. If we go on over the page to page 4 and
25 paragraph 3.3, the question there is:

1 "Does the Local Authority accept that there were any
2 failures and/or deficiencies in its response to abuse or
3 allegations of abuse?"

4 The answer to that is:

5 "The Local Authority does not accept that there were
6 failures or deficiencies. The practice of responding to
7 abuse or allegations of abuse are consistently
8 developing in line with practice experience, guidance
9 and legislative framework."

10 I wonder if you have any reflections on that
11 response?

12 A. I understand that people are responding and managing
13 risk to children at a point in time and at a point in
14 a legislative point of time, and that that has been
15 informed and has changed and has developed, and I think
16 that's what that point I suppose tries to touch on.

17 However, I think we also need to acknowledge that it
18 hasn't been good enough, because children have been
19 abused and known to be abused whilst they've been in
20 care and we know an awful lot more today than we ever
21 have done about the things that we need to have in place
22 to prevent children being abused.

23 Q. Okay. You mentioned about various issues within the
24 last few answers that you've given about -- and you
25 mentioned earlier in your evidence about making sure

1 that there aren't gaps, making sure there aren't
2 failures, and you talked about checks and balances,
3 assessment and registration process, it being as
4 thorough as possible.

5 I wonder if you could outline some of the areas
6 perhaps in a wee bit more detail where you think that
7 maybe there are gaps or have been gaps and what the
8 checks and balances should be to address those?

9 A. I think historically and I think in the review or the
10 audit that was undertaken in terms of this submission,
11 and myself having looked at those kind of the manual
12 exercise and the audit that was carried out, a theme
13 that comes up time and time is the absence of recording.
14 So consistency of recording.

15 And although from the audited files, not the
16 additional files that were submitted, there was nothing
17 identified, we cannot be complacent and say that means
18 that no children were abused. There was nothing
19 recorded which indicated that that had been identified
20 by any individual and there was nothing written down
21 that was a clear allegation. But we need to be open to
22 the fact that we know that children, whether they're in
23 a family context or whether they're in a foster care
24 family context, can be vulnerable to different types of
25 abuse or harm and we need to make sure that we have, as

1 I say, the quality assurance in place.

2 I think the other thing historically for me that has
3 caused -- resulted in a picture about individual
4 children's needs being really diluted was about family
5 files, until fairly recently in our social work history
6 were family files removed.

7 So if I was or any one of us was a child in five
8 siblings, you would often -- it was the norm up until,
9 I would say, the 1990s to have been one of those
10 children within a family file context, so individual
11 needs of children, the individual voice of children, the
12 lived experience of individual children then becomes
13 really quite lost, I think, in terms of how things have
14 been recorded and doesn't easily then allow us to see
15 where there are issues or presenting things we should be
16 worried about.

17 Q. Then in terms of the checks and balances, I think you
18 were saying that perhaps that's not just at one level of
19 the system, that needs to be all the way through the
20 system?

21 A. Yes.

22 Q. Can you tell us a little bit more about that? Is that
23 to do with supervision? Is it to do with an independent
24 chair of the fostering panel? Is that the sort of thing
25 that you have in mind there?

1 A. Yeah, I think there are different strands, there's
2 different approaches, there's things we can put in place
3 which strengthens -- it's part of that whole-system
4 approach.

5 So from assessments of potential carers in terms of
6 the scrutiny and the preparation work and the
7 thoroughness of assessment to independent reviewing
8 officers looking at individual care plans for children
9 that are maybe not as steeped in some of the practice
10 and maybe the day-to-day contact, so having that
11 independent look at the child's world, the child's plan,
12 and being able to ask and pose some of the more
13 challenging questions around the child's lived
14 experience, so independent chairs of panels, absolutely,
15 for the same reason, being able to be more objective and
16 pose maybe some of the challenging questions that might
17 not come about if you are also the case manager or
18 involved at some level in the plan for that child.

19 I think the importance of -- you know, we touched in
20 quite some detail earlier from the -- was it Janice West
21 report?

22 Q. Yes.

23 A. In relation to training and making sure we link that
24 right back to initial assessment from the word go about
25 in the quality of supervision and the support. It's not

1 necessarily always formal training around -- you know,
2 a kind of piece of -- you know, two-day training course,
3 but actually that ongoing dialogue and development of
4 skills through that supervisory relationship.

5 The ADM has a role to play ensuring that there's
6 appropriate scrutiny around changes in children's
7 placement and potentially where you may get carers who
8 you might have an emerging profile around what we would
9 call disrupted placements and children had to move on.
10 The agency should be then having a much closer look at
11 why is that? You know, so that ability to have a kind
12 of self-evaluation and learning, so developing -- you
13 asked about culture earlier on. Being open to that
14 learning culture within our organisation is really,
15 really important.

16 Q. Okay.

17 I've come to the end of my questions for you,
18 Lesley. I know that you had obviously carried out
19 preparation for coming to give evidence and you might
20 have had some notes. I just want to check if there was
21 anything else that you felt it important that you wanted
22 to share with us in terms of your own learning before we
23 finish?

24 A. All I would really just want to comment on is I think
25 this is -- for me in terms of the submission, albeit it

1 wasn't myself who undertook it, reviewing the work that
2 was carried out in the submission and I suppose my
3 commitment to make sure that we fully take that learning
4 forward, and I'm not saying -- I think there's some real
5 strengths, some things that clearly have developed
6 within my own organisation, but just I suppose has been
7 helpful and taken me much closer into this Inquiry by
8 providing some evidence today that I want to make sure
9 that the organisation learns as much from this
10 experience and that we take our findings and the
11 improvements forward, because I don't think we've done
12 that justice to date.

13 MS INNES: Thank you very much, Lesley. I don't have any
14 more questions for you.

15 There are no applications, my Lady.

16 LADY SMITH: Are there any outstanding applications for
17 questions for Lesley?

18 Lesley, that does complete all we have to ask you
19 today, but I can't let you go without thanking you very
20 much for engaging with us as you have done, despite the
21 fact that you've obviously had to play catch up, only
22 having been in your present role for about 11 months,
23 but it's plain to me that you really have done your
24 homework and I'm really grateful to you for that.

25 But I also note that maybe it's done you a favour,

1 to help you get up to speed faster, perhaps, than you
2 would have done in the important history of what went
3 wrong in the past in your authority, and no doubt what's
4 worked, and take learning forward, informed by obviously
5 the work that we're also doing here.

6 Thank you for demonstrating your commitment to that.
7 I am really grateful to you.

8 A. Thank you, my Lady.

9 LADY SMITH: I'm able to let you go now. You're probably
10 very glad to go at this stage on a Friday afternoon.

11 Thank you.

12 A. Thank you, my Lady.

13 (The witness withdrew)

14 LADY SMITH: That's it for this week, I think, Ms Innes,
15 yes?

16 MS INNES: That is it for this week, my Lady.

17 Next week we have further evidence from Local
18 Authorities. Some of the witnesses have given evidence
19 before at the beginning of the case study and are coming
20 back again.

21 On Tuesday we have evidence from the City of
22 Edinburgh Council and then from Renfrewshire.

23 LADY SMITH: Thank you very much.

24 I'll rise now until 10 o'clock on Tuesday morning.

25 (3.50 pm)

1 (The Inquiry adjourned until 10.00 am on
2 Tuesday, 8 November 2022)
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Judith Tait (affirmed)1
Emma Clater (affirmed)1
 Questions from Ms Innes2
Lesley James (affirmed)105
 Questions from Ms Innes106

