

1

Wednesday, 24 May 2023

2 (10.00 am)

3 LADY SMITH: Good morning.

4 As we explained yesterday, we're in expert evidence
5 territory this week and today we move on to our next
6 expert, who is going to be giving evidence both today
7 and tomorrow, I think, Mr MacAulay, isn't that right?

8 It's Professor Kendrick. He's well known to us,
9 having given evidence before, but he's now going to move
10 on to a section of the expert report work he has done
11 that we haven't yet discussed with him in a public
12 hearing.

13 Mr MacAulay, I think he's ready, is he?

14 MR MACAULAY: Good morning, my Lady.

15 As my Lady has just said, he has been here on two
16 previous occasions, and I would seek to recall
17 Professor Kendrick.

18 LADY SMITH: Thank you.

19 Professor Andrew Kendrick (recalled) (affirmed)

20 LADY SMITH: I hope my first question is an easy one. How
21 would you like me to address you today? Professor?

22 A. Andrew is fine.

23 LADY SMITH: Andrew, thank you Andrew and, as I say, welcome
24 back.

25 Please don't imagine that I think it is easy for you

1 because you've been here and you know what it's all
2 about, because I'm well aware of the hard work, detailed
3 work and effort that you've put into everything you've
4 done for us so far. It's no doubt an anxious prospect
5 that you're now going to be put on the spot by
6 Mr MacAulay's questioning and mine.

7 Joking apart, if you want a break any time, please
8 just say. Any questions, don't hesitate to ask. If
9 we're not making sense it will be our fault, not yours,
10 so tell us.

11 A. That's fine.

12 LADY SMITH: Very well.

13 If you're ready, I'll hand over to Mr MacAulay and
14 he'll take it from there.

15 MR MACAULAY: Yes, my Lady.

16 Questions from Mr MacAulay

17 MR MACAULAY: Good morning, Andrew.

18 A. Morning.

19 Q. This is your third visit to the Inquiry?

20 A. That's right.

21 Q. You were here on Day 125, which was 3 April 2019, when
22 you looked at parts 1 and 2 of your report and the
23 report's title is Development of Children's Care
24 Services in Scotland.

25 A. Yes.

1 Q. And you came back and addressed foster care --

2 A. Yes.

3 Q. -- on Day 277, 4 May 2022.

4 I have a few preliminary points just to run past
5 you.

6 The first relates to your CV and I think when you
7 give evidence at foster care you updated the position in
8 relation to your work for Redress Scotland; is that
9 correct?

10 A. That's right.

11 Q. Is that work continuing?

12 A. Yes, that's right.

13 Q. In what capacity do you work?

14 A. I've been involved in training of panel members and
15 staff of Redress Scotland, in terms of the work that
16 we're looking at today, in terms of the development of
17 children's care services in Scotland and I've also done
18 some specific work around discipline and punishment in
19 relation to care settings, looking at the background to
20 the changes in relation to punishment. I'm also
21 completing a report on issues of discipline and
22 punishment in care settings over the past, you know, the
23 period.

24 Q. And has that work been commissioned -- by whom?

25 A. By Redress Scotland.

1 Q. Can I also just remind us all that you were a member of
2 CELCIS from 2011 to 2018; is that correct?

3 A. That's right.

4 Q. Am I right in thinking that much of the research relied
5 upon in the report you prepared for us has been on the
6 back of research carried out by CELCIS?

7 A. Probably going further back than that, research and work
8 I did while I was at Dundee University as well. So
9 I was involved in the Skinner Review in 1992 when I was
10 at Dundee, as well as work for the Children's Safeguards
11 Review in 1997, again at Dundee and then I moved to
12 Strathclyde in 2001, working as Professor of Residential
13 Child Care for the Scottish Institute for Residential
14 Child Care, which then transformed into CELCIS.

15 Q. Yes. You have correctly pointed out that you're not
16 just limited to CELCIS in your research and we can see
17 from report that there is research material there that
18 you've carried out with others outwith CELCIS?

19 A. That's right. That's correct.

20 LADY SMITH: Andrew, just for anyone who's new to your
21 evidence or indeed new to the expression CELCIS, we
22 should probably confirm you are talking about then
23 Centre of Excellence for Looked-after Children In
24 Scotland, is that right?

25 A. That is the old name. I'm trying to think of the new

1 name, Centre for Excellence for, is it Child Protection?

2 MR MACAULAY: It's Centre for Excellence for Looked-after
3 Children In Scotland.

4 A. That's the original name. It has since changed its
5 name. I think I'd left before it changed its name.

6 LADY SMITH: But the idea -- well --

7 A. It took on responsibility as well in relation to child
8 protection and that became incorporated in the name.

9 LADY SMITH: Of course, and that might extend beyond the
10 interests of children who are subject to any form of
11 State intervention?

12 A. That's correct.

13 LADY SMITH: But generally child protection throughout
14 Scotland?

15 A. Yes.

16 LADY SMITH: So it has an interest in risk as well as
17 children who have actually been exposed to risk and
18 therefore the State has intervened, whether taking them
19 away from their family home or giving them a form of
20 supervision within the family home or having to take
21 them to secure accommodation or whatever.

22 A. That is correct, and I feel rather embarrassed that
23 I don't know the name.

24 LADY SMITH: As long as you know what you're doing that's
25 probably all that matters.

1 MR MACAULAY: I think one of the problems is there are so
2 many acronyms around these days.

3 A. That's right.

4 Q. You have prepared this part of the report, and I'll just
5 give the reference for the transcript, it is
6 LIT-000000025. I think you have the report on your
7 laptop, but you'll also I think have it on the bigger
8 screen, so it's up to you as to which you want to use.

9 If you wanted to move to a particular part yourself,
10 then clearly you would use the laptop.

11 The other point I want to make to you -- I think
12 you're aware of this -- because of the pagination
13 issues, I'll be looking at the page number at the bottom
14 right of the page.

15 A. Right. Yes.

16 Q. I should also point out that you have prepared
17 an executive summary, which I don't plan to look at, but
18 I'll give the reference for the transcript,
19 LIT-000000027.

20 A. Yes.

21 Q. Can I just very briefly recap on where we were before we
22 parted company before?

23 In your previous report, parts 1 and 2, you looked
24 at the development of children's care services from 1900
25 to 1995?

1 A. That's correct.

2 Q. You went back a bit in time to give context?

3 A. Yes.

4 Q. In particular over that period, you looked at the role
5 played by the Clyde and Curtis committees that led to
6 the 1948 Act?

7 A. Yes.

8 Q. That was a landmark piece of legislation?

9 A. That was a landmark piece of legislation, yes, in terms
10 of it put the best interests of children at the
11 forefront and in legislation for the first time. It
12 changed the structures in which childcare would be taken
13 forward in terms of Children's Committees and specialist
14 Children's Officers.

15 Q. Just looking at some of the issues that emerged in that
16 period. We had issues over recruitment and training,
17 for example?

18 A. Yes.

19 Q. Do these issues go on and on as we come up to the
20 present day?

21 A. Absolutely. I think there have been recent concerns,
22 particularly in terms of social work and children's
23 services, following the pandemic, following the current
24 squeeze on the public sector about the impact of
25 staffing shortages and there have been issues around

1 training.

2 Prior to the Independent Care Review there had been
3 a recommendation that residential childcare workers
4 should be trained to degree level, level 9. That was
5 put on hold because of the Independent Care Review and
6 my understanding is that that's not been taken forward.

7 Similarly with mandatory training for foster carers.

8 Q. The Independent Care Review, that's the review that
9 emerged with The Promise?

10 A. That's correct, yes.

11 Q. In that period leading up to 1995, you also looked at
12 the Kilbrandon Report that led to the passing of the
13 1968 Social Work Act?

14 A. That's correct.

15 I think it is important to say that although the
16 Children Act 1948 was an important piece of legislation,
17 it was only one of the pieces of legislation that
18 covered children who would go into care settings.

19 The other continued to be the Children and Young
20 Persons (Scotland) Act 1937 -- I think I have the title
21 of that correct -- which looked in particular in
22 relation to young offenders and children, young people
23 who needed care and protection, who were placed in care
24 by the courts. The Children Act covered children and
25 young people who were placed in care in a sense on

1 a voluntary basis, Kilbrandon called it on an informal
2 basis.

3 So there was still, at that time, a twin-track
4 approach in terms of the legislation, in terms of
5 children being received into care settings.

6 Q. The 1968 Act, that too was a landmark piece of
7 legislation?

8 A. That's correct, because that, in a sense, brought
9 together to a large degree the legislation, but also
10 focused on the needs of children rather than, certainly
11 in terms of young offenders, the needs of children and
12 young people so that all children and young people who
13 were considered in need of compulsory measures of care
14 would be considered in the same way by the radical new
15 system of the children's hearing system.

16 Q. Was it also a desire to keep children out of the court
17 system?

18 A. That's correct, yes.

19 Q. That led, I think, to the emergence of what we are
20 calling List D schools. I think they came to an end
21 when funding was withdrawn in the mid-1980s?

22 A. That's correct.

23 List D schools followed on from the approved
24 schools, which had been set up by the 1932 Act, then the
25 1937 Act. They were basically schools which had been

1 approved by the Scottish Education Department in
2 Scotland, or similar mechanisms in England, and were
3 a primary mechanism in relation to young offenders and
4 so young offenders would be placed in approved schools
5 by the courts.

6 With the 1968 Act, and in a sense the changes in
7 legislation, there was some ambiguity about what would
8 happen to the approved schools. It was initially
9 intended that they would be amalgamated into social work
10 department provision for children and young people, but
11 as a temporary measure it was decided that the Scottish
12 government, Scottish Education Department, would
13 continue to oversee and partially to finance the List D
14 schools, the old approved schools.

15 That carried on from say 1970 to the mid-1980s, when
16 there were a number of questions about what would happen
17 to the List D schools. Eventually in I think 1986 it
18 was decided that the Scottish Government would stop
19 having that sort of overview role, but also stop
20 funding.

21 LADY SMITH: Andrew, when you say "Scottish Government", you
22 don't mean Scottish Government in its current form --

23 A. That's right.

24 LADY SMITH: -- you're talking about the Scottish Office?

25 A. At the time, yes.

1 LADY SMITH: Thank you.

2 MR MACAULAY: The buildings that were the List D schools
3 remained?

4 A. Absolutely. Some of these had gone back to the 19th
5 century. Some of them were the industrial schools and
6 reformatories of the 19th century. Some continue today
7 as residential, but often as providing a wider set of
8 services.

9 Q. I'll come on to the next piece of landmark legislation
10 in a moment, but before that, and I think you've touched
11 upon this at the beginning, there is an important review
12 known as the Skinner Review in 1992?

13 A. Yes.

14 Q. You said you were involved in that?

15 A. I, along with a colleague, did the literature review for
16 the Skinner Review, yes.

17 Q. What was the message from that review?

18 A. The message was that there needed to be improvement in
19 terms of residential childcare. I think one of the main
20 messages that residential childcare needed to be seen as
21 part of the broader continuum of children's services.

22 I mean, residential care has for a long time been --
23 has had the shadow of the industrial schools and the
24 reformatories hanging over it, has been seen as
25 a second-class form of care, it's been seen as a service

1 of last resort, when nothing else is working, that
2 children will be placed in residential care.

3 Skinner highlighted the positives of appropriate
4 residential care, but highlighted issues around
5 training, highlighted issues around staffing. At that
6 time, in the 1990s, the children's rights agenda was
7 being pushed forward and Skinner, you know, highlighted
8 the importance of that, highlighted the listening to
9 children, focusing on the individuality of children and
10 young people, in relation to residential childcare.

11 Q. That then takes me up to the Children (Scotland) Act
12 1995 which is your launching pad for this part of the
13 report?

14 A. That's right.

15 Q. That too was a landmark piece of legislation?

16 A. It was a landmark because it took on board the
17 children's rights agenda, the participation of children
18 and young people in decision-making, as well as a range
19 of other issues, which supported children. I was going
20 to say supported children in care, but also changed the
21 terminology to "looked-after children" or to
22 "looked-after and accommodated children", which in turn
23 has become seen as stigmatising because of the acronym,
24 "LAC", suggesting a negative rather than a positive and
25 again has moved on and the term --

1 Q. But that is the terminology of the present day?

2 A. It continues to be in terms of legislation, but "care
3 experienced" is the term which is more frequently used.

4 LADY SMITH: Of course one of the key factors in relation to
5 the 1995 Act was the drafting sought to introduce a new
6 mindset, making the child's interest of paramount
7 importance --

8 A. That's right.

9 LADY SMITH: -- in any decision being made in relation to
10 a child.

11 A. That's right.

12 LADY SMITH: Any child, of whatever background, whether it
13 is domestic circumstances or social work circumstances,
14 care services or whatever. That had never actually been
15 said before.

16 A. Well, that's right, and that was absolutely crucial.

17 LADY SMITH: Of course the failure to recognise that may
18 have, I suppose, been behind some of this substandard
19 approach to putting children in residential care that
20 you were talking about a moment ago. Second class,
21 these children weren't as important as other children
22 and therefore didn't need the same protection as other
23 children.

24 A. Well, that's right. I think, you know, in the --
25 unfortunately, some of those messages are still coming

1 through the recent case of child abuse of children with
2 complex health needs in the north of England. The
3 messages are still coming through. Children weren't
4 listened to, they weren't seen as important and
5 unfortunately I think it is one of the major issues of
6 the stigmatisation of children and young people in care
7 continues.

8 LADY SMITH: Yes.

9 MR MACAULAY: Then if we look at this report, the period you
10 set out on page 343, at the very top, you describe as
11 1995 to 2014. But in fact in the report itself do you
12 also have a section dealing with current developments
13 that takes you more up to date?

14 A. That's right.

15 Q. Looking to the structure of the report, it is a long
16 report and you have quite a lengthy introduction, where
17 you cover a number of different topics, and I'll begin
18 with that.

19 You begin by telling us that that particular period,
20 1995 to 2014, saw unprecedented developments in care
21 services in Scotland. Can you develop that for me?

22 A. I think this came on the back of, I think, some of the
23 points we have discussed in relation to the Children
24 (Scotland) Act 1995 and the focus on children's rights,
25 I think. Certainly in terms of social work and

1 children's services, the whole agenda of children's
2 rights became much more prominent, following 1995, but
3 also on the back of the Skinner Review and the
4 Children's Safeguards Review there was the increasing
5 acknowledgement that there needed to be further
6 safeguards to protect children and young people.

7 Although Skinner and the Children's Safeguards
8 Review didn't themselves highlight actual instances of
9 abuse, they said that it was possible but didn't go into
10 detail, they recognised, I think, the vulnerability of
11 children and young people in care, the need for
12 additional safeguards, but also in the 1990s you started
13 to see the acknowledgement of historic abuse and
14 non-recent abuse, so with Edinburgh's Children, the
15 Inquiry into the abuse in Edinburgh's children's homes
16 over a long period of time, which was in late 1990s, the
17 Fife Inquiry into abuse in Fife children's homes in the
18 early 2000s, again highlighted issues of abuse. At that
19 time, particularly in residential childcare, foster care
20 wasn't, although I had carried out some work for Tayside
21 Regional Council, which was covered in the foster care
22 case study, highlighted issues of abuse in foster care,
23 it was known it was going on. The focus generally was
24 on the abuse of children in residential childcare.

25 I think some of those developments fed into wider

1 developments for social work services in terms of the
2 need for the regulation of both care services and of
3 carers, social workers, residential staff as well, which
4 led to the developments in the early 2000s of originally
5 the Care Commission and the Scottish Social Services
6 Councils, which were set up to regulate not just
7 children's services but wider social work and social
8 care services, but for example residential childcare
9 workers were one of the first groups of staff who were
10 to register with the Scottish Social Services Council.
11 That then itself led on to I think a whole new agenda in
12 focusing on the quality of care.

13 Q. You provide us with some context on page 344 in relation
14 to statistics and the number of children in care.

15 In the first paragraph you say that the number of
16 looked-after children remain fairly constant in 1995 to
17 2005 and you give us the figures, but over the second
18 half of the period there was a significant increase in
19 the number of children in care, rising from 12,000 in
20 2005 to 15,000 in 2014 and peaking at 16,000.

21 Why was this increase?

22 A. I'm not certain on this, but I would suspect that there
23 were issues in relation to child protection and the
24 increasing recognition of child protection.

25 Back in the 1960s, when Kilbrandon was looking at

1 issues in terms of young offenders and children and
2 young people in need of care and protection, I think the
3 figures for young offenders were in the order of 20,000.
4 The figures for childcare and protection were in the
5 order of 500.

6 As we move through and recognise -- the issues of
7 child protection, physical abuse, sexual abuse, which
8 became increasingly recognised, emotional abuse and
9 neglect, meant there was a shift in terms of the focus
10 of social work and children's services.

11 I would suspect, I would think, that that is one of
12 the reasons.

13 Q. What you do tell us is that between the period 2005 and
14 2014 that Scotland had substantially higher rates of
15 looked-after children than the other UK countries?

16 A. That's right.

17 Q. What was the reason for that?

18 A. Again, one of the issues is that social work in Scotland
19 includes criminal justice and it doesn't in the same way
20 in England, so there are different systems as well in
21 relation that affect the number of children in care.

22 Q. You move on to a section with the heading "Developments
23 in Collaborative and Joined-Up Working" and you
24 introduce us to this notion of corporate responsibility,
25 which is a policy I think that was being driven at that

1 time --

2 A. Being driven, but being driven long before that.

3 I mean, when I first came into research on children's
4 services in the late 1980s, the whole issue of joined-up
5 working was being developed then in youth strategies,
6 bringing together social work and education, so in some
7 of the first research I did on residential and foster
8 care and that was carried out in the early 1990s, the
9 issue of joined-up working, of integrated working, of
10 collaborative working, you know various terms were
11 already around. Corporate parenting I think was first
12 coined in the early 1990s. So this has been
13 a consistent theme, I think, over the past 50 years or
14 so in relation to policy and practice in children's
15 services and so the developments in the early 2000s were
16 picking up on themes which had gone on long before, and
17 again, in inquiries and in relation to child protection,
18 children abused in the home, the issue of joined-up
19 working continues to be --

20 Q. When you talk about joined-up working, who was working
21 with whom then?

22 A. That's right. Well, social work, education, health,
23 police, the whole range of services, who need to be
24 involved in relation to child protection work and
25 children's services work.

1 Certainly, early in my academic career at Dundee
2 University some of the early joint training between
3 social work and police at Dundee University in relation
4 to child protection. As I say, it's an issue which has
5 been around a long, long time and continues to be
6 an issue today.

7 Q. You tell us that in 2001 the Scottish Executive wanted
8 to drive this policy forward and publish this
9 publication For Scotland's Children?

10 A. That's right, yes.

11 Q. That was the intention behind this publication?

12 A. Yes.

13 Q. On page 346, do you set out in quite some detail the
14 series of recommendations that were put forward to
15 monitor change?

16 A. Yes, that's correct. And which highlights a range of
17 issues which you could still argue carry on today. You
18 know ... I had no resolve boundary issues, because
19 I remember doing some work for the Joseph Rowntree
20 Foundation at the time which was looking at issues such
21 as that in relation to joint working.

22 Q. The next Scottish Executive report, that you make
23 reference to on page 347, is Getting It Right for Every
24 Child. Do you see that as an important piece of work?

25 A. Absolutely, and I think it's been central to work since

1 and --

2 Q. What is the message then from this report?

3 A. I think it's about how agencies come together in a way
4 which is child centred and I think that's seeing it from
5 the child and young person's perspective.

6 Again, some work we did on issues about integration
7 in school, where I think we titled an article following
8 what a young person said, "Well, some woman came round".
9 That young person actually didn't know whether it was
10 social work or education, but it was the impact of that
11 individual in supporting the young person that was
12 important.

13 I think it's that idea that different agencies can
14 come together to put the child at the centre.

15 Q. Indeed if we look at page 348, you set out one of the
16 conclusions, about a third of the way down:

17 "The proposals require everyone working with or
18 involved with children to place the child at the centre
19 of activity ..."

20 A. Yes.

21 Q. You then have a section headed "Safeguarding Children in
22 Care and Responses to Abuse of Children and Young People
23 in Care."

24 This is a separate section. This is where you point
25 to the fact that over this period there was

1 an increasing recognition that children had been abused
2 in care historically?

3 A. Yes, that's right.

4 Q. What you describe as a pivotal moment in 2002, when
5 Chris Daly lodged his petition with the Scottish
6 Government?

7 A. That's right, because -- I mean, there had been
8 instances in other countries, in Ireland, where the
9 issues of abuse of children and young people being
10 abused in care had been highlighted, and I think it was
11 following, as I say, some of the media coverage, but
12 also the growing voice of survivors of abuse in care,
13 calling for this to be recognised and for remedial
14 action to be taken into the case of historic abuse,
15 non-recent abuse, and Chris Daly lodged petition 535
16 focusing on his experiences in Nazareth House Children's
17 Homes in Aberdeen, which prompted then the developments
18 which have taken place since then and leading to the
19 Inquiry itself.

20 LADY SMITH: It took quite a long time, as you'll be aware,
21 and indeed you'll know we looked into that delay
22 separately.

23 A. That's absolutely right, and it was around this time
24 that myself and a colleague, Moyra Hawthorn, in the
25 Scottish Institute for Residential Child Care started to

1 look at this as well. I can remember round about this
2 time convening a seminar of professionals -- I think it
3 was in Alloa actually, where I grew up -- to look at
4 some of these issues, because it was obviously survivors
5 were rightly pushing this forward, but agencies were
6 also recognising that this was an issue that would need
7 to be addressed.

8 It was at that point then that I became involved and
9 further involved, as we lead on, in terms of the Shaw
10 Review.

11 Q. I'll come to that. Again, we've heard evidence about
12 that, so I won't spend too much time.

13 A. Sure.

14 Q. You go on to talk about the fact that the Scottish
15 Office asked Roger Kent to report on the arrangements
16 for safeguarding and protecting children. That's on
17 page 349. Can you just develop that for me? What was
18 Roger Kent going to be doing?

19 A. I think at the time of the Skinner Review in 1992 there
20 was a parallel review in England, the first Utting
21 Review, and again at the time of the Children's
22 Safeguards Review there was a parallel review being
23 carried out in England and the Children's Safeguards
24 Review was broader than the Skinner Review, because, as
25 I said -- well, as we have acknowledged, Skinner focused

1 on residential childcare.

2 I think there was a recognition that children were
3 suffering harm in a wide range of care settings, not
4 just residential childcare, foster care and this also
5 included hospitals and boarding schools. So this was
6 much broader, but again addressed the range of factors
7 which in a sense allowed, if that's the right word, the
8 ongoing harm to children in care settings and the
9 mechanisms which could prevent this, the safeguarding
10 mechanisms to prevent abuse.

11 Q. If we look at his recommendations, again we come across
12 word likes "training", "staffing", "supervision"?

13 A. Absolutely.

14 Q. Which have been around for a long time?

15 A. Absolutely.

16 Q. One of the recommendations he made was in relation to
17 a complaints procedure for children, and you'll see that
18 discussed by yourself on page 350, that there should be
19 complaint logs in all establishments that should be
20 reviewed externally. Was that taken through?

21 A. I'm not exactly sure in practice. I know that there was
22 a focus in trying to make complaints mechanisms
23 accessible, or more accessible for children and young
24 people. But I think again one of the messages is that
25 children and young people often mistrusted complaints

1 mechanisms, were concerned about how such complaints
2 would be taken forward, whether they would be believed,
3 who would be involved in such things.

4 So I'm -- while probably there should be complaints
5 logs, I think it's about how they might be used.

6 Q. In relation to the Scottish Office's response then to
7 the Kent Review, you begin to address that on page 351.
8 I think what you tell us is that in 1998 the Scottish
9 Office published its response and accepted most of the
10 Kent recommendations?

11 A. That's correct. I think one of the main ones that they
12 did not accept was the issue in relation to the number
13 of people who might be involved as providing the term
14 "external eyes", who might be involved in scrutinising
15 what was going on, but I think particularly in relation
16 to residential care and the idea that you have to
17 remember that this is a child, a young person's home,
18 and to have too many people involved might actually be
19 offputting.

20 That comes up in a whole range of contexts in which
21 how do you put forward mechanisms to protect children
22 without them becoming too in your face. Again, it's
23 covered in the report somewhere else, but something that
24 springs to mind, obviously in terms of fire safety,
25 children's homes need adequate responses but how often

1 it was seen that fire extinguishers used to prop open
2 a door. Just that idea that a bureaucratic necessary
3 then imposes on what might be seen as a homely care
4 setting. I think this is one of the reasons why this
5 was balked at by -- rightly in terms of Scottish Office,
6 but nevertheless the importance of external scrutiny in
7 one form or another continues to be highlighted as
8 important.

9 Q. In relation to Local Authorities appointing Children's
10 Rights Officers, which I think is one of the
11 recommendations, the Scottish Office accepted that?

12 A. Yes.

13 Q. And also accepted recommendations in relation to
14 selection, recruitment and staffing?

15 A. Yes.

16 Q. And also in connection with registration and inspection?

17 A. Yes, that's correct, and that leads back to some of the
18 developments that I mentioned earlier.

19 Q. You have a section beginning on page 353 with the
20 heading "Feeling safe". Here you discuss a publication
21 by Who Cares? Scotland, I think?

22 A. That's correct.

23 Q. Who Cares? Scotland published a report on young people's
24 views about safety in care and did that highlight some
25 of the issues identified by Kent?

1 A. That's right. It covered a lot of similar ground, but
2 I think importantly this was very much from the
3 perspective of children and young people and by Who
4 Cares? Scotland, who have advocated on their behalf so
5 successfully over so many years.

6 Q. Again, if we read on in your report, the importance of
7 recruitment and training are again identified?

8 A. Yes, it's a constant.

9 Q. Just going on to page 358 to try to take this as shortly
10 as possible, you have a paragraph there I think that
11 comes out of this particular review, the second main
12 paragraph:

13 "Children and young people highlighted the
14 importance of needing to be able to talk to people about
15 their safety and well-being."

16 Again, is that a recurrent theme?

17 A. I think that's right, but it's how it is done and over
18 many years children and young people have highlighted
19 the importance of relationships with staff, of being
20 able to develop close relations with staff to be able to
21 speak to them in a sense in a natural way so that if
22 there are safety concerns it can be done through those
23 relationships with staff, perhaps rather than through
24 formal complaints mechanisms.

25 LADY SMITH: Children don't want to have to fill in

1 a form --

2 A. Absolutely.

3 LADY SMITH: -- nor should they.

4 A. No. So I think that's it.

5 Again, research has shown this consistently and
6 independent care reviews show this, introducing the term
7 "love" I think is really important, love means many
8 things but going back to some of the issues about
9 residential childcare, some of the negative perceptions
10 of residential childcare, the concerns about abuse
11 allegations, there has been a tension over the years
12 about providing safe care and providing those close and
13 trusting relationships between staff and between carers
14 and young people.

15 Again, myself and Mark Smith wrote on this many
16 years ago, talking about professional closeness, this
17 tension in care settings that allow these loving
18 relationships, but without the danger of crossing
19 boundaries in terms of inappropriate action.

20 Q. Is that the problem, is it, crossing boundaries?

21 A. It's the issue of: if you allow those close
22 relationships, at what point does it cross the boundary?

23 LADY SMITH: The relationship has to remain professional,
24 doesn't it?

25 A. It does.

1 LADY SMITH: Even if it's --

2 A. But there are concerns about what "professional" means,
3 because indeed professional sometimes is taken to mean
4 distant.

5 LADY SMITH: Yes. Well, it doesn't need to be though.

6 A. It doesn't need to be, but it can in some contexts and
7 I think that is the concern.

8 LADY SMITH: I was about to say, and I mean, Andrew,
9 "professional" with a small P, in that the person whose
10 job it is to fulfil a childcare duty doesn't have to
11 have a professional qualification, but all the aspects
12 of being a professional and knowing what the rules are,
13 if you like, what the guidance is, and adhering to it,
14 which may and usually will involve boundaries, is really
15 important?

16 A. Yes, that's right, but there are situations where that
17 can be difficult, let's say that.

18 LADY SMITH: I have -- I can't remember whether it was you
19 I had this discussion with in the foster care case
20 study -- some difficulty, I have to confess, with using
21 the word "love", partly because you cannot say to
22 an employee of the Local Authority for example, "In this
23 job you have to love the children".

24 A. I think that would defeat the purpose.

25 LADY SMITH: Absolutely. The person that you are talking to

1 may be excellent at the job, may inspire the child's
2 trust, the sense of safety, their health, their being
3 active and achieving and nurtured and respected,
4 responsible and included, the SHANARRI wheel, without
5 being able to say, "I love that child".

6 A. That's right.

7 LADY SMITH: Perhaps what it's trying to do is capture the
8 development -- either pre-existing or development of
9 a real instinct for the needs of the child and
10 an ability to have that rare degree of emotional
11 intelligence that helps you do your job for the child,
12 the empathy that you need to do your job for the child.

13 A. I think that's right, but I recall a residential care
14 manager, a young person said to him, "Do you love me?"
15 And he said, "Yes, I do, but in the same way that I love
16 my own children". Again, I think it's because love is
17 such a broad term. It can mean so many things, and
18 because it can have links with sex and sexuality --

19 LADY SMITH: Absolutely.

20 A. -- that there can be concern about how it is used and so
21 you need to be very careful about how it is used, but in
22 terms of caring for someone and those feelings, emotions
23 and practices in relation to caring for someone, then
24 those are what are important, maybe more than the term.

25 LADY SMITH: Yes.

1 Mr MacAulay.

2 MR MACAULAY: You mentioned earlier, Andrew, the Edinburgh
3 and the Fife inquiries and you do discuss these in the
4 next few pages.

5 If I can take you to page 360, here you are starting
6 to look at the Fife Inquiry Report and you provide some
7 details about the information that was presented to the
8 Inquiry.

9 One of the points that came out to me was towards
10 the bottom of the page, that the Inquiry found that
11 there had been a failure to respond fully to allegations
12 of abuse made by children in the early 1970s. Even
13 although the allegations were being made, there was no
14 response?

15 A. I think that's right. Going back to the 1970s, when the
16 whole issue of the sexual abuse of children was not
17 recognised in the same way as it is today, and I think
18 in this Inquiry -- disbelief about that this was even
19 possible. So I think there have been -- in some of the
20 work done for the Inquiry down south on child sexual ...
21 discourses of denial have been a constant, "This doesn't
22 happen", "How could it possibly happen", and this is an
23 example of that.

24 Q. We see that the abuse in the residential homes that were
25 involved here, took place over a 30-year period between

1 1959 and 1989?

2 A. Yes.

3 Q. I want to take you to a section that's headed on

4 page 362 "Services for Young People with Harmful Sexual

5 Behaviour". This is a problematic area, is it not?

6 A. Yes, very much so.

7 Q. I think this was also discussed by Kent?

8 A. It was discussed by Kent, yes, and there had been

9 a number of pieces of work following on from that, which

10 have focused on this area.

11 Q. What is the issue here then?

12 A. The issue is that a significant proportion of sexual

13 abuse or sexually inappropriate behaviour is carried out

14 by children and young people themselves, and so the

15 issue becomes providing appropriate treatment services

16 for those young people.

17 Q. Do these young people, if they are in care, do they

18 require to be kept apart from other young people who are

19 in care?

20 A. Well -- if they are in the same placements, I think the

21 issues need to be acknowledged, so that safeguards can

22 be put in place. I wouldn't like to say that they

23 should always be kept separate, because this is a range

24 of behaviour and a range of ages, but it does have to be

25 acknowledged about in terms of the potential risk to

1 other children and young people.

2 One of the issues raised was that sometimes
3 information wasn't available to the carers, to foster
4 carers, or to residential staff, that this was actually
5 a risk that had been recognised.

6 Q. The research that you point to on page 362, I think
7 again it's under reference -- it's a report,
8 a commitment to protect, first of all young people's
9 sexual offending must be more effectively addressed at
10 an early stage. Is that right?

11 A. Yes.

12 Q. Then you quote from a Social Work Services Inspectorate
13 report, which is a commitment to protect:

14 "Any decision to place a child who has sexually
15 offended in Local Authority accommodation must take into
16 account any risk to other children."

17 A. That's right.

18 Q. That is the key point?

19 A. I think that's right. You know it goes on to say
20 consideration to establishing specialist provision,
21 which might be separate in that one context. I did work
22 at Geilsland School, where there was a unit set up for
23 young people who had carried out sexually harmful
24 behaviour, but it's about recognising that work and
25 doing work to address those issues.

1 Q. You yourself have looked at this in some of the research
2 that you have carried out. If you turn to page 363,
3 towards the bottom you make reference to the development
4 of the residential school programme for sexually
5 aggressive young men?

6 A. Yes, that is the Geilsland unit.

7 Q. Can you just explain and develop that. This is a unit
8 that was opened specifically to accommodate such
9 individuals?

10 A. That's right, involving work with a service down in
11 England who specialised in work in relation to sexually
12 aggressive young people under the supervision of a child
13 psychologist, that therapeutic models and work was put
14 in place in relation to these young people.

15 Q. In the next paragraph, on page 264, below halfway, you
16 tell us there that in 2005 and 2006 the Social Work
17 Inspection Agency, the Care Commission and HM
18 Inspectorate of Education in fact inspected four
19 residential schools providing services for such young
20 people?

21 A. That's right, yes.

22 Q. Were these bespoke units? You have mentioned Geilsland,
23 there is St Mary's Kenmure, Oakbank in Aberdeen and
24 Kibble?

25 A. Yes, so on a similar sort of model, yes.

1 St Mary's was the one recommended above and that
2 work was taken forward, because as well as this work
3 there was also community work going on at this time,
4 Halt were carrying out work across Scotland. It wasn't
5 just working in the residential units; there was work
6 going on in community settings as well.

7 Q. We see here that that inspection found that the young
8 people in the specialist units had experienced poor care
9 in their early teen lives, many had been subject to
10 physical or sexual abuse and indeed most had other
11 behaviour problems?

12 A. That's right.

13 Q. So they are a damaged group of --

14 A. Some of the young people had learning difficulties as
15 well.

16 Q. That inspection also I think concluded, this is on
17 page 365, that children who are so damaged do present
18 a significant challenge to all staff working --

19 A. Yes.

20 Q. -- in these places?

21 A. Yes.

22 Q. The conclusion then of this inspection is towards the
23 bottom of page 365, the inspection concluded:

24 "At present services for young people with sexually
25 harmful behaviour are most effectively delivered in

1 dedicated settings which have specially trained staff in
2 an appropriately designed environment."

3 A. Yes. I think that's correct, and, you know, in a sense
4 this was developing work at the time and I think
5 certainly I'm most familiar with the work at Geilsland
6 and in the work we carried out there were issues in
7 relation to staffing, in relation to staffing turnover,
8 of keeping the expertise when residential staff are
9 being trained up to work with this particular issue.

10 It's important that the resources are being put in
11 place that the training for staff is available in order
12 to take this work forward.

13 LADY SMITH: Can you just remind me, because I've lost track
14 of the date, "At present, services for young people ...
15 are most effectively delivered in dedicated settings",
16 when was that?

17 A. That was 2007, I think, the joint inspection.

18 MR MACAULAY: The inspection itself took place in 2005/2006.

19 A. Yes.

20 LADY SMITH: The report was 2007. Thank you.

21 A. Again, this goes back to -- raised the issue about
22 knowledge of issues of sexual abuse and suchlike
23 developing in the 1970s and I think it was in the sort
24 of 1990s that there was this recognition that
25 a significant proportion of abuse, and this is a on

1 a range of behaviour, was perpetrated by children and
2 young people.

3 Q. You also have a section headed:

4 "Protection of Disabled Children."

5 This is on page 366. Indeed you yourself have
6 carried out some research into that particular topic?

7 A. That's right.

8 Q. What is the message that you can get from that?

9 A. The research over time has shown that disabled children
10 can be particularly vulnerable to abuse, partly because
11 they are often in care settings. In relation to the
12 research we did, it was about issues of disabled
13 children being able to communicate about abuse,
14 especially if those children and young people had their
15 own issues in relation to communication. It was about
16 developing the practice and training to recognise those.
17 Rebecca Oosterhoorn, who carried out the research and I
18 supported her, was looking specifically at issues around
19 communication systems and the article was entitled:

20 "No sign of harm."

21 The importance then of making it possible for
22 disabled children to communicate about abuse, but there
23 are other risk factors as well in terms of physically
24 disabled children needing intimate care and suchlike by
25 carers, so a whole range of issues which need to be

1 addressed.

2 Q. You return on page 368 to Chris Daly's petition and you
3 give us a chronology of what that set in motion,
4 including the December 2004 apology on behalf of the
5 people of Scotland by Jack McConnell. You say that in
6 addition to that the Scottish Executive outlined
7 proposals to examine historical abuse in residential
8 care; is that right?

9 A. That's right, yes, and that's what led to the Shaw
10 Review.

11 Q. You discuss the historical Shaw Review in the next few
12 pages?

13 A. Yes.

14 Q. On page 373 you set out the Government response to the
15 Shaw Review?

16 A. Yes.

17 Q. Was part of that response the setting up of In Care
18 Survivors Service Scotland?

19 A. That's correct.

20 Q. You talk about that on page 374. That was set up
21 I think you say in 2008, has that been a positive
22 mechanism for survivors?

23 A. Yes. That was certainly a positive mechanism in terms
24 of it offering a range of services, counselling and
25 support, advocacy, help in accessing records, the Shaw

1 Report had highlighted the whole issue of records in
2 relation to residential childcare, poor record keeping,
3 records which had been lost. Often establishments would
4 close and then what happens to records? Records can
5 often be in different places because social work
6 agencies would keep records as well as the
7 establishment, so often they were separated.

8 In work I did for the Church of Scotland records
9 were I think four box files and a number of books, which
10 you had to trawl through in terms of trying to pull
11 together information. It's certainly not easy. And
12 that's as a professional researcher, as it were. For
13 individuals who are trying to find out about their past,
14 incredibly difficult.

15 Q. You go on to tell us about the involvement of the
16 Scottish Human Rights Commission and the Human Rights
17 Framework. Did you have some involvement in that?

18 A. In terms of the framework, CELCIS did. I had not
19 a great deal of involvement in that actual piece of
20 work, but then became involved later.

21 Q. Did this lead up to what was known as the
22 Acknowledgement and Accountability Forum? This is
23 page 375.

24 A. You may have covered -- there are some issues around
25 timescale in terms of the publication of the Scottish

1 Human Rights Framework and the commitment of Scottish
2 Government to the Accountability Forum.

3 LADY SMITH: Very well summarised. You'll get all the
4 detail about that in my findings in relation to the
5 Scottish Government case study.

6 A. That's right. But it was the movement from
7 acknowledgement and accountability to the idea of
8 a National Confidential Forum, which then triggered
9 further work, because of that, what was seen by the
10 Scottish Human Rights Commission, that the National
11 Confidential Forum would not address some of the issues
12 in relation to taking forward justice for survivors of
13 abuse.

14 Q. You go on to talk about the Time to be Heard Forum, and
15 we have looked at that in the Inquiry.

16 A. Yes.

17 Q. Then to the National Confidential Forum that you talk
18 about on page 380.

19 A. Yes.

20 Q. That was set up through the Victims and Witnesses
21 (Scotland) Act 2014. That has now been wound up; is
22 that correct?

23 A. That's right. I think largely because of the role of
24 the Inquiry in taking forward some of those issues.

25 I was involved in a relatively small-scale

1 evaluation of the pilot Time to be Heard and some
2 survivors found it very useful and very positive, but
3 I think in broader terms it was seen as not addressing
4 some of the wider issues in relation to justice for
5 survivors.

6 Q. I think one of the main messages that has come out of
7 that particular piece of work on page 382, where at the
8 bottom of the page:

9 "... the issue that far outweighed all others was
10 'an exceptionally strong sense of responsibility to
11 provide their account in the hopes of protecting
12 children currently in care; that their experiences
13 should not be replicated in the current or future
14 experiences of Scotland's children'."

15 A. Yes.

16 Q. I just draw attention to that, because that is also a
17 message that this Inquiry has been --

18 A. Absolutely, yes.

19 LADY SMITH: Again and again and again we have heard from
20 applicants that they have hopes that this Inquiry will
21 achieve that.

22 MR MACAULAY: Eventually there was a commitment to the
23 setting up of a public inquiry and here we are today?

24 A. Yes.

25 Q. You have a section on page 385 that's headed, "Going

1 missing from care". Over the years, has running away
2 been a real problem for children in care?

3 A. Yes. I think it covers a range of factors. I think
4 that some young people find care settings restrictive
5 and want to get out. It may be because of, and again in
6 the past, abuse or safety issues in care settings ...
7 that's that idea of children not being believed and sent
8 back to care settings. But I think it's also to do with
9 children and young people sometimes just wanting to
10 throw off authority and to take part in risky behaviour
11 and young people do it in a whole range of settings.
12 I think there are particular risks in relation to
13 children and young people in care, dangers of sexual
14 exploitation and the cases of sexual grooming of
15 children and young people in care. The dangers of
16 living on the street and homelessness.

17 So it is an issue. It's also an issue in terms of
18 when -- it covers some of the work that's been done on
19 this -- is a child missing and when is a child absent?
20 So what are the definition in terms of when a child or
21 young person might be in danger because they are not in
22 the care setting?

23 Q. But there has been an effort to provide some
24 protection --

25 A. Yes.

1 Q. -- for these children and you talk about that on
2 page 386, where you draw attention to the first
3 dedicated refuge for young people --

4 A. Yes.

5 Q. -- which was opened in July 2004. But it subsequently
6 fell by the wayside, didn't it?

7 A. Yes, unfortunately it did. I think that although it
8 provided an important alternative, there were issues
9 about how young people got to the refuge and there were
10 also funding issues at that time.

11 Q. The rationale behind it was if a child ran away there
12 was somewhere where the child would be able to go and be
13 safe?

14 A. That's right, that would provide respite for that
15 period, so as an alternative to living on the streets.

16 LADY SMITH: Although, as I think you point out, a maximum
17 of 14 days?

18 A. Yes, and --

19 LADY SMITH: Seven plus seven.

20 A. One of the issues there has been in terms of although
21 this was the first dedicated one, in terms of Local
22 Authorities looking at some of these issues is that
23 these short-term placements can often then become
24 clogged up with longer-term placements, because there
25 may not be alternatives to move them on to, so then in

1 a sense you lose that respite.

2 MR MACAULAY: It opened in 2004 and closed in 2013.

3 A. Yes.

4 Q. The next section in your report, on page 387, is headed,
5 "Suicide prevention for looked-after children".

6 You tell us that in 2011 Social Care and Social Work
7 Improvement Scotland -- that is the Care Inspectorate
8 now, is that right?

9 A. Yes.

10 Q. I think their proper name is what I read out, but
11 they're known as the Care Inspectorate?

12 A. That's right, yes.

13 Q. It published a practice guide to support work in
14 preventing suicide in looked-after children and young
15 people. Do you know what the background to that was?

16 A. I think there have long been concerns about not just
17 suicide, but parasuicide and self-harming behaviour in
18 relation to young people who are dealing with the
19 effects of trauma and suchlike, and certainly the
20 difficulties that carers have had, again in terms of
21 training and understanding of such behaviours has been
22 highlighted over a number of years and this was one
23 specific piece of work in order to support the work with
24 such children and young people.

25 Q. The guide, you tell us, addressed what is described as

1 a number of myths about suicide and --

2 A. That's right.

3 Q. -- you don't set them out, but apparently one of the

4 myths is talking about suicide or asking someone if they

5 feel suicidal encourages suicidal attempts, whereas

6 I think the reverse is the case?

7 A. That's right. It's the importance again of

8 communication.

9 Q. Another myth that's identified, people who talk about

10 suicide never attempt or complete suicide. That's

11 another myth, I think?

12 A. Yes.

13 Q. Just to finish this section, the guide that was

14 published detailed significant key areas that could be

15 helpful. These include focusing on being able to

16 recognise signs, building confidence in carers, sharing

17 information and communication, working together and

18 staff and carer support?

19 A. Yes.

20 Q. In a way they make perfect common sense?

21 A. And are relevant to so many aspects that need to be

22 addressed in terms of caring for children and young

23 people.

24 Q. You also have a section, you mentioned this a little

25 while ago, about sexual exploitation, but you address

1 that beginning at page 387 and into 388. I think you
2 look at three particular pieces of research --

3 A. Yes.

4 Q. -- in your discussion here.

5 The first piece of research that you looked at, at
6 the top of page 388, is research gathered on the
7 perspectives of 28 young people in the Glasgow area.
8 What you tell us is that two-thirds of the young people
9 were from residential schools and all but one of the
10 others were in children's homes?

11 A. I can't remember what the sampling frame for that piece
12 of research was, so that may be so. It may be to do
13 with the mechanisms by which those young people were
14 identified meant that they were from residential care.

15 Although, as I mentioned, there have been issues in
16 terms of the grooming of young people in residential
17 care.

18 Q. I think in the third paragraph the research tells us
19 that young people detailed how they were targeted --

20 A. Yes.

21 Q. -- and groomed by perpetrators? Are young people in
22 care -- whether they're actually in care or have run
23 away, are they a particularly vulnerable group?

24 A. Yes, I think they are. For a range of reasons.

25 It may be to do with, as I say, about past trauma,

1 to do with issues in relation to them being in a care
2 setting, but also some of the wider issues about
3 relationships, self-harming behaviour and risk-taking
4 behaviour.

5 Q. On page 389, below halfway, you make reference to work
6 by Lerpiniere and colleagues in 2013 and I think
7 Professor Radford, who has given evidence to the
8 Inquiry, referred to this work. That work identifies
9 children and young people in residential and foster care
10 as a vulnerable group in relation to sexual
11 exploitation?

12 A. Yes.

13 Q. Perhaps the conclusion of that particular work on
14 page 390 seems to be that the report found clear
15 evidence that children and young people in the care
16 system had been targeted by groomers?

17 A. Yes, that's right.

18 Q. The next section in your report is headed, "Abuse and
19 neglect of children in care".

20 Here you refer to a UK study in 2014 that obtained
21 information from a Local Authority through a freedom of
22 information request?

23 A. Yes, that's right, by Professor Biehal.

24 Q. What did this survey or research seek to establish?

25 A. It established that there continued to be a number of

1 allegations of abuse and neglect in foster care and
2 residential care across England and Scotland and that --
3 it is difficult to judge, obviously one doesn't want any
4 abuse in residential and foster care, but it did find
5 that the instances of allegations were lower in Scotland
6 than in England. And that the allegations cover a range
7 of abuse in terms of sexual abuse, physical abuse, but
8 also inappropriate practice such as physical restraint.

9 Q. In relation to the comparison between Scotland and
10 England, where that is discussed on page 391 is the
11 final paragraph, I think the researchers acknowledged
12 there may be various reasons for the lower figures in
13 Scotland?

14 A. That's right. I can remember at the time speaking with
15 Professor Biehal about this and she asked: why do you
16 think it might be lower in Scotland? I think I couldn't
17 add any more than has been suggested by herself and her
18 colleagues.

19 LADY SMITH: Of course one of the factors could be that in
20 Scotland fewer children and young people were speaking
21 up and making the allegations?

22 A. Well, that's right. That's one possibility.

23 MR MACAULAY: If we look to see what the authors say, the
24 differences may reflect lower levels of abuse, but they
25 may reflect different practices in dealing with

1 allegations or different thresholds for the reporting
2 and recording of cases.

3 A. Well, that's right.

4 Q. There are a whole host of possible reasons.

5 A. A whole host of possibilities.

6 LADY SMITH: It's a constant nightmare for an academic,
7 isn't it, to work out whether what's in a record you're
8 looking at tells you everything that happened, because
9 what is recorded may not show that at all?

10 A. Again -- as the Inquiry will have found -- the work on
11 this shows that individuals don't keep records if it's
12 detrimental to ... or may not keep records if it's
13 detrimental. Discourses of denial include poor record
14 keeping. So it's a very difficult issue, the work I did
15 in relation to foster care, was that, and again in those
16 days it was physical records and when we're going back
17 over time it's physical records, it's very difficult to
18 extract that information. One of the points made at the
19 time was that often there were signs if connected within
20 records that might indicate, but often those connections
21 weren't made.

22 LADY SMITH: The other thing we heard about in foster care
23 was how good a child can be, and by that I include
24 teenagers, in doing their own cost-benefit exercise and
25 working out, they feel, it's better to say nothing

1 because the unknown is what lies out there, I could end
2 up somewhere worse and I've learnt to cope with this.
3 A. Well, that's right. But also the fear, the guilt, the
4 stigma in relation to such issues.
5 LADY SMITH: Added to the: I might not be believed?
6 A. Yes.
7 LADY SMITH: And I might not be removed immediately, but
8 it's made known to my foster parents I've made these
9 allegation and so my life becomes even worse than it is
10 at the moment.
11 A. Yes.
12 MR MACAULAY: We are just coming up to 11.30, my Lady.
13 LADY SMITH: We'll take the morning break just now, Andrew,
14 and I'll sit again in about a quarter of an hour or so.
15 (11.30 am)
16 (A short break)
17 (11.45 am)
18 LADY SMITH: Andrew, are you ready for us to carry on.
19 A. Yes.
20 LADY SMITH: Mr MacAulay.
21 MR MACAULAY: My Lady.
22 Could you turn then, Andrew, to page 392 of the
23 report and we'll start looking at the next subsection.
24 It's headed, "Quality of Care Services".
25 You set out what your plan is in this subsection and

1 that is:

2 "To address a range of literature that has addressed
3 different aspects of the quality of care services. We
4 will present research on the quality of care and the
5 experiences of children and young people in residential
6 and foster care. We will also describe the significant
7 developments that have occurred -- in particular, the
8 setting of standards for care services and the progress
9 in regulation and inspection."

10 Just on that, "standards for care services", can you
11 just tell me what that is about?

12 A. In 2002 the Care Commission was set up to regulate care
13 services and so this would enforce standards in relation
14 to care services, would register all relevant care
15 services, and would have the ability, should care
16 services fail to meet the standards, to either give
17 recommendations or make instruction that they improve
18 and, finally, they could deregister services and close
19 them down.

20 Q. The standards themselves, were they part and parcel of
21 the Regulation of Care (Scotland) Act 2001?

22 A. Yes, so the standards were developed, I think it is
23 2004/2005 --

24 Q. On the back of the Act?

25 A. Yes.

1 Q. The standards are the standards set by the Scottish
2 ministers?

3 A. Well, the standards were developed across a range of
4 aspects of services and then published by the Care
5 Commission.

6 Q. The first research you point to is a sense of purpose
7 and this was a piece of research that involved the
8 interviewing of 34 care leavers from Local Authorities
9 in Scotland?

10 A. Yes.

11 Q. One urban and one rural and you give us details of their
12 ages. What was the intention behind this particular
13 piece of work?

14 A. I think one of the important, and increasingly it was
15 looking at getting the perspectives of young people who
16 had experienced care, so in terms of care leavers they
17 could then speak about the range of their experiences
18 that they had had in care. As I said, it was part of
19 a broader UK research programme by Save The Children, so
20 this was looking at their perspectives of why they had
21 entered care or their understanding of it and of their
22 experiences in care.

23 Q. Just on that same theme, do we see later on that there's
24 a desire not just to speak to former care leavers, but
25 also to involve care leavers in the training regimes and

1 indeed as carers?

2 A. Yes, indeed, that's correct, yes.

3 Q. Presumably they could bring to bear their own
4 experiences of care?

5 A. That's right. When I first came into social work
6 research in the late 1980s there was still debates about
7 the relevance of gaining the perspectives of children
8 and young people or the clients, as it was of the time,
9 of social work services. My background is actually in
10 social anthropology, which is focused on gaining
11 individuals' own understandings of their lives and
12 experiences, so I was quite surprised that it was still
13 being debated in the 1980s about the usefulness of this
14 perspective, but in terms of 1990s children's rights and
15 generally just -- it became increasingly important to
16 involve children and young people in research projects,
17 but also in the whole regulatory process.

18 LADY SMITH: Why was it that children's own account of their
19 experiences and their views were not considered to be
20 relevant.

21 A. I think it was just that idea of the expert professional
22 at the time going back into the 1970s and 1980s. It was
23 developing, but it still wasn't core.

24 LADY SMITH: Yes. Was it more of an assumption that value
25 might emerge from what the objective bystander has to

1 say, the professional researcher, but the subject of
2 experience of those on the inside is not going to be of
3 any help at all?

4 A. Also I think the status of children has changed in terms
5 of that has changed over time in terms of how parents
6 generally engage with children.

7 LADY SMITH: Yes.

8 MR MACAULAY: You set out on page 393 in relation to this
9 particular cohort of former care leavers, that the
10 reasons why they were taken into care, three-quarters
11 suggest they were taken into care because their families
12 were unable to cope or they were out of control or
13 because of other neglect and abuse.

14 A. Yes.

15 Q. These are familiar themes?

16 A. Jean Packman back in the 1960s I think talked about
17 victims, villains and volunteers, so it was the three
18 broad categories of those who have suffered abuse or
19 neglect, either young offenders or young people who are
20 beyond the control of their parents or the volunteers
21 for reasons of health, physical or mental health, when
22 parents can't look after children and they would come
23 into care. So I think this is the three broad
24 categories of why children and young people might be
25 received into care.

1 Q. The message from this group was that entering care was
2 an anxious time, but there were also advantages
3 identified, in particular whether they were leaving
4 possibly an abusive regime?

5 A. Yes. I think that's right.

6 I think it's long been recognised that taking
7 a child or young person into care is seen as the last
8 resort and that effort should be made to support
9 children and young people in their families. The
10 support mechanisms have changed over time. When I was
11 first involved it was quite common for Local Authorities
12 to have Family Support Workers, over the 1990s and 2000s
13 they tended to disappear and we're back again in
14 emphasising the importance of supporting families.

15 Children and young people could be in situations of
16 abuse or neglect or if -- when they are beyond control,
17 that may be triggered by traumas involved. So coming
18 into care, although difficult because of that
19 transition, a number of young people see that as
20 a positive in terms of rescuing them from that
21 situation.

22 Q. You say that the approach is for a child not to be taken
23 into care except as a last resort, but you mustn't leave
24 it too late?

25 A. I think that is one of the very difficult balances,

1 Brigid Daniel in her work on the Child Protection Review
2 identified cases where children and young people were
3 left in dangerous family situations for too long because
4 of concerns about the knowledge of poor outcomes of
5 children who go into care and the negative perceptions,
6 say, of residential childcare. So it does become -- it
7 is an incredibly difficult decision to get that balance
8 right.

9 Q. We know there have been cases where children who are
10 left in dangerous situations died?

11 A. Absolutely, or who are returned home, as was in the news
12 today.

13 Q. What you tell us next here, this is interesting, that
14 most of the young people in this cohort had experienced
15 both residential and foster care and Barry, the
16 researcher, noted that many young people preferred
17 residential care to foster care. Can you explain why
18 that was the case in that instance?

19 A. Also I found this in some of the research I've done, is
20 that young people see residential care as a more neutral
21 setting. In a sense foster care can be seen as: are
22 these people taking over from my own parents? I feel
23 loyal to my parents. Am I in some way betraying them by
24 going into foster care? It's also, as Monica Barry
25 says, that it's less intense than being in a family

1 setting, if there are a number of other young people,
2 a number of staff and suchlike and the possibilities
3 of -- we're talking about relationships again. If there
4 are a larger number of carers then the larger number of
5 possibilities for that one individual who you might
6 strike up a relationship with.

7 Q. She concludes that for young people the advantages of
8 residential care outweighed the disadvantages, but there
9 were still those who highlighted the stigma attached to
10 care?

11 A. Yes, and I think that that continues.

12 Q. The other point that is raised is being moved in care.
13 This is a continual theme, I think, in your report. The
14 impact different placements --

15 A. Yes.

16 Q. -- can have on lives.

17 A. That's right. Again it's about issues about -- we
18 talked about being taken into care is a last resort and
19 the issues about residential care being seen as a last
20 resort, so then you try foster care and if that breaks
21 down you try another foster care placement, if that
22 breaks down ... at what point is residential care seen?
23 Young people acknowledge that their behaviour may not be
24 perfect in relation to foster care. They may be testing
25 boundaries, they may be exhibiting difficult behaviour

1 and that is more intense in a foster care setting than
2 necessarily in a residential care setting.

3 Q. Turning to page 394, the final paragraph, where she sets
4 out the suggestions that the young people made for
5 change and again we come back to this --

6 LADY SMITH: They made suggestions for change.

7 MR MACAULAY: Suggestions for change.

8 The most common response, as set out there, was to
9 address the quality of staff, so we're back to that?

10 A. We are back to that. This is early 2000s, there's still
11 the vast majority of residential carers would not be
12 trained, the training for foster carers again would not
13 have been as great as it is now.

14 Q. This is where the message comes out that younger people
15 with a background in care should be employed in care?

16 A. Yes.

17 Q. And indeed act as trainers for staff?

18 A. Yes, and increasingly that has become the case and young
19 people have contributed significantly to developments in
20 social work and residential childcare training by being
21 involved.

22 LADY SMITH: Can you tell me a little bit more about that,
23 Andrew?

24 A. Well, certainly, in -- well, I don't know in how many,
25 but I would imagine in most, if not all, service users

1 are involved in the training of social workers and in
2 relation to the training of residential care workers.

3 I'm trying to remember.

4 LADY SMITH: What about the training of foster carers?

5 A. Part of the issue is that the training of foster carers
6 is still not mandatory, so doesn't have the same footing
7 in relation to residential and social workers. There
8 may well be examples, I don't know.

9 LADY SMITH: Thank you.

10 MR MACAULAY: Other responses, as we are told, included
11 listening to young people. Again, that is a common
12 theme, isn't it?

13 A. Yes.

14 Q. Better training for residential and foster carers,
15 keeping families together and reducing the number of
16 moves in care?

17 A. Yes.

18 Q. It's clear that moves in care must be disruptive to
19 a child's life?

20 A. Absolutely, on a number of different levels. Children
21 and young people have been removed from their families,
22 then to be moved again, again feelings of failure and
23 guilt, but the impacts in terms of education, a movement
24 in placement may mean a movement in school or issues in
25 attending school. It's been highlighted in relation to

1 the health of children and young people, in terms of
2 records keeping up with their moves in care, and the way
3 sometimes it's been carried out.

4 Examples of a young person's belongings being
5 gathered up in black bin bags doesn't really build their
6 esteem.

7 LADY SMITH: Also short notice.

8 A. Absolutely, yes.

9 LADY SMITH: No preparation.

10 A. I think that this is -- again, we have touched on this
11 in other parts, often many of these moves are done on an
12 emergency basis even when there has been some sort of
13 inkling that this might be going to happen.

14 LADY SMITH: Andrew, you'll know that one of the forms of
15 abuse we have heard a lot of evidence about and we're as
16 interested in here as we are in physical and sexual
17 abuse, is emotional abuse. Do you think that
18 circumstances where a child is moved too often are
19 potentially abusive to the child in an emotional way?

20 A. Yes, and I mentioned doing the work for Redress Scotland
21 on discipline and punishment. One of the things I did
22 there was to match forms of not just discipline and
23 punishment, but other aspects of care to different forms
24 of abuse. It struck me when I was writing the section
25 on neglect and emotional abuse that this is exactly what

1 multiple placements are doing, because the issue with
2 neglect in terms is often it's that idea of being --
3 it's the idea of it happening over a period of time, but
4 this is what -- the multiple placements happen over
5 that, and it's not knocking children and young people's
6 confidence and esteem to be, "We don't fit. We don't
7 fit here. We don't fit in this foster care placement.
8 We don't fit in this ..."

9 Over and over again.

10 LADY SMITH: Thank you.

11 MR MACAULAY: Moving on to the next piece of research you
12 look at on page 395, this is material published by Who
13 Cares? Scotland in 2003, which was its 25th anniversary.

14 A. Yes.

15 Q. It's a report with the title, "Let's face it!"

16 It looks like quite a large study, on the face of
17 it, 90 children and young people were contacted and
18 consulted with.

19 A. Yes.

20 Q. In the second paragraph what we're told is that the
21 young people highlighted relationship with carers and
22 the quality of care as key issues. It goes on to say
23 that they spoke of negative attitudes and discrimination
24 from carers, staff and the public in making assumptions
25 about the reason they were in care.

1 Leaving aside the public, at this time in 2003 is it
2 a surprise that carers would have such attitudes towards
3 those in their care?

4 A. There are still negative attitudes, even among staff and
5 carers and social workers about particular aspects of
6 care, residential childcare there are still negative
7 assumptions made in the work we did in the Scottish
8 Institute for Residential Child Care, when we were
9 training residential workers you came across this.
10 I think there is still that negativity and there are
11 still gaps in terms of the training of ...

12 The whole issue is ambiguous. The negatives have
13 been identified, the Inquiry is identifying the
14 negatives, the Independent Care Review has been
15 identifying the negatives and it's how you build, get
16 beyond that, in order to develop those positive -- that
17 change in culture and competence which The Promise is
18 asking for among staff, carers and suchlike.

19 Q. This may have been covered in foster care, but young
20 people highlighted discrimination within foster care and
21 in particular the different treatment of foster carers'
22 children to the fostered young people?

23 A. Again, examples -- well, foster carers might take their
24 own children on holiday but gain respite care for
25 fostered children or different rules or different

1 expectations in relation to it. So, yes, certainly,
2 that has been identified as an issue.

3 Q. In relation to care generally, the message was that
4 positive relationships were felt to be based on
5 listening, trust, respect and being treated fairly.
6 Again, we see this throughout the report as being a key
7 message --

8 A. Absolutely.

9 Q. -- from the point of view of the children in care?

10 A. Yes.

11 Q. Towards the bottom of that page, the issue of physical
12 restraint was raised and how it could be used too
13 frequently and inappropriately. I think later on in the
14 report you look at physical restraint --

15 A. That's right.

16 Q. Physical restraint, it is a difficulty, isn't it? How
17 do you restrain a child who is difficult to control?

18 A. Absolutely. A young person or a young man of 16 or 17
19 who could be quite large and is being aggressive and we
20 understand the reasons why that young man might be being
21 aggressive because of the trauma they've experienced in
22 the past because of their past experiences, but if that
23 young man is intent on causing damage then what do you
24 do? It is an incredibly difficult area and some would
25 argue that any physical restraint is a breach of that

1 young person's rights.

2 We found in research that we did that there was
3 a great deal of ambiguity, confusion around physical
4 restraint and its use and obviously you want to develop
5 better methods of deescalation that prevent physical
6 restraint, but, yes, it can be used inappropriately, it
7 can be used when it isn't needed. So a major issue.

8 Q. On page 396 this research goes on to look at the issue
9 of the young people's mental health and well-being and
10 three-quarters of the group made some reference to:
11 their self-esteem; feelings of fear, stress and anxiety;
12 and the impact of trauma and loss.

13 Again, we can see that this is a vulnerable group?

14 A. Absolutely, and this is -- or rather other research
15 quoted by Howard Meltzer, who has done it across the UK,
16 did it in relation to Scotland, has highlighted the high
17 proportions of young people in care who experience poor
18 mental health because of their past and because of
19 trauma.

20 Q. If we move on to page 397, again it's Who Cares?
21 Scotland carrying out more research and this is in 2008.
22 The research topic was "Celebrating Success and
23 Challenging Stigma". Again, this looked like quite
24 a large study, with 189 young people taking part?

25 A. Yes, that's right.

1 Q. Part of what was being explored was what young people
2 thought "success" meant; is that correct?

3 A. That's right.

4 Q. What were the conclusions there?

5 A. I think that young people in care have very similar
6 expectations of success as most young people, of having
7 happy, caring relationships, earning money, having
8 a job, staying in school. I mean these young people
9 have exactly the same expectations as all others.

10 Q. You then turn to the regulation of care services and you
11 touched upon this earlier. In particular that the 21st
12 century saw major developments in the regulation and
13 inspection of care services?

14 A. Yes. Absolutely. Yes.

15 Q. You mentioned the Care Commission that was established
16 in 2002 by the Regulation of Care (Scotland) Act 2001.
17 And subsequently the Care Inspectorate in 2011; is that
18 right?

19 A. That's correct, yes.

20 Q. As we go through your report we see that the Care
21 Commission had what they called triennial reports,
22 whereby they would report over a three-year period on
23 the provision of services?

24 A. That's right.

25 Q. Tell us a little bit about the jurisdiction of the Care

1 Inspectorate that was set up?

2 A. Childcare services must be registered with the Care
3 Inspectorate in order to operate. It must meet the
4 requirements of legislation, care standards and the
5 various regulations which are put in place. So this is
6 about a range of issues, welfare of users, personal
7 plans, fitness of managers and employees and suchlike.
8 The Care Inspectorate inspects services on a regular
9 basis, looking at different aspects of the care, the
10 quality of care, the quality of the environment, quality
11 of staffing and leadership, and are graded.

12 Should the inspections highlight weaknesses, then
13 the Care Inspectorate will work with services to ensure
14 that these are addressed. They may make
15 recommendations. They may make requirements. As I
16 said, ultimately they may deregister a service should it
17 be failing to meet the standards over a period of time.

18 Q. Yes. You set some of that out on page 399, powers of
19 enforcement, serve an improvement notice and so on, but
20 in relation to essentially cancelling the registration
21 of a service provider, on the face of it the test seems
22 high, that there is a serious and immediate threat to
23 the well-being, an application can be made to the
24 Sheriff Court for emergency cancellation, so is that the
25 test for --

1 A. Yes, well, I think that's for an emergency cancellation.
2 I think there could be -- I am not sure, but I think
3 that there may be processes over a longer period of time
4 in which it works with services.

5 LADY SMITH: I think you're right, Andrew, and the Care
6 Inspectorate are in a position to gather evidence, if
7 you like, because they do work at quality improvement
8 initially if they spot problems to see if they can be
9 sorted out.

10 A. That's right.

11 MR MACAULAY: We'll no doubt hear a bit about that next week
12 from Professor Levitt.

13 LADY SMITH: Yes.

14 MR MACAULAY: One thing you do tell us about the Care
15 Inspectorate, that it has also been leading on joint
16 inspections?

17 A. That's right.

18 Q. Who would be involved in the joint inspections?

19 A. I think depending upon the nature of the inspection,
20 Education Scotland might be involved, His Majesty's
21 Inspectorate of Education, which is part of Education
22 Scotland and the Health Service could also be involved
23 in joint inspections.

24 There can be joint inspections of individual
25 services, for example, residential schools might have

1 the Care Inspectorate and HMIE inspectors involved, but
2 also they do broader strategic inspections, bringing
3 together the different regulators.

4 Q. In its existence the Care Commission and Care
5 Inspectorate have published quite a number of reports?

6 A. That's right.

7 Q. When I say "published" they are published, they are made
8 public?

9 A. Yes, that's right, yes.

10 As are all the individual inspection reports for
11 services.

12 Q. If I can turn to page 400, you have a heading,
13 "Extraordinary lives". I think this relates to a review
14 carried out by the Social Work Inspection Agency in
15 2006?

16 A. Yes.

17 Q. In particular it was a major review of looked-after
18 children in order to identify good practice in caring
19 for children and young people and to make proposals on
20 how to improve the care experience. Again, looks like
21 quite a large study?

22 A. That's right, and there were a number of different
23 aspects to it.

24 Q. If we look at what's been highlighted. For example,
25 towards the bottom of the page:

1 "The review highlighted the importance of keeping
2 children safe."

3 A. Yes.

4 Q. Can you give some context to that?

5 A. I think this is building up in terms of the reports that
6 we've looked at previously, the issues highlighting the
7 Children's Safeguards Review. I think there have been
8 ongoing issues about ensuring the safety of children and
9 young people in care, both in terms of protecting
10 children in relation to their own families, so wider
11 child protection issues, but also the risks in
12 residential and foster care.

13 Again, picking up on a point earlier, that abuse in
14 foster care had tended to receive less attention than
15 abuse in residential care, so this was starting to pick
16 up on the idea as Roger Kent had highlighted in the
17 Children's Safeguards Review.

18 Q. If you turn to page 401, it is the very last sentence of
19 the main paragraph where we read:

20 "Central to children's safety and well-being was
21 a positive relationship with carers and staff members."

22 A. Absolutely.

23 Q. Once again, it's a recurring theme?

24 A. Absolutely.

25 Q. If we turn to page 402, just about halfway down, we're

1 told that the education of looked-after children and
2 young people was also identified as a concern. Was
3 there a suggestion that such children should be the
4 concern of the whole Local Authority and designated
5 teachers needed to be supported and developed to assist
6 these children?

7 A. Yes. In the 1990s there had been work done in England
8 and in Scotland which had identified the issues
9 surrounding the education of children and young people
10 in care. Some of the issues were about putting low
11 expectations, both within care settings, but also within
12 schools. The idea that if those children are in care
13 they aren't going to succeed and in a sense there is
14 a long history of that. The idea that children in care
15 would go on to menial jobs, girls would be in domestic
16 service, young men would go into the Army and into
17 manual trades.

18 This is almost like a bit of a carry on from that
19 and so children and young people in care were achieving
20 very poor educational outcomes and that then impacted on
21 job prospects, on accommodation and their general life
22 chances. So picking up on that Extraordinary Lives,
23 I think that started to be the recognition that there
24 had to be a real gear change in terms of how the care
25 system addresses the education of children and young

1 people.

2 Because often they will have experienced educational
3 disruption before they come into care. They are
4 starting from a low base, so it's what you do, not just
5 to carry on at the same pace, but to ameliorate the
6 disadvantage that those children and young people have
7 experienced.

8 Q. If we turn to page 403, about a third of the way down
9 from the top, can we see the conclusion of the review:

10 "The single most important thing that will improve
11 the futures of Scotland's looked-after children is for
12 Local Authorities to focus on and improve their
13 corporate parenting skills."

14 A. This comes back to joined-up working, integrated
15 working, collaborative working. It's about how the
16 whole range of services and staff in those services come
17 together to support children and young people.

18 Q. You have a section on page 406 that's headed, "Social
19 Inclusion and Social Exclusion", that I think relies on
20 research that you yourself have carried out?

21 A. This was just picking up on -- I think this was in the
22 Tony Blair Labour Government had identified issues
23 around social exclusion and Scotland. I think there was
24 a social exclusion unit down south, I think in Scotland
25 it was termed to be more positive to be a social

1 inclusion unit, I hope I have that the right way round.

2 But anyway, it highlights the issues in relation to
3 children and young people, care-experienced children and
4 young people, about the factors that could lead to
5 social exclusion and prevent the closer links in terms
6 of society.

7 Those are the factors that cause social exclusion,
8 unemployment, low income, poor housing, poor health,
9 these are all closely linked to reasons why children and
10 young people enter the care system, talked about
11 multiple placements, the transition into care can be
12 exclusionary as well.

13 Q. You go on to talk in the next paragraph actually about
14 the impact of multiple placements and in particular in
15 connection with schooling disruption --

16 A. Yes.

17 Q. -- so that has a knock-on effect?

18 A. Absolutely. Oh, absolutely.

19 Q. There is a short section on page 407 where you address
20 "Black, Asian and Minority Ethnic Looked-after
21 Children". Here is the training of those who are doing
22 the looking after of particular importance to understand
23 cultural issues?

24 A. Not just the training, but I think even the recognition
25 of ethnicity in terms of services, ethnicity was often

1 not recorded for looked-after children, uncertain how
2 many Black, Asian, Minority Ethnic children might be in
3 the care system, but the need to address cultural issues
4 and for culturally competent care.

5 Q. I think that's captured on page 408, in the large
6 quotation that we have towards the centre of the page:

7 "Residential child care staff need training to
8 develop culturally competent approaches to care which
9 actively address the spiritual needs and development of
10 all children and young people regardless of creed and
11 ethnicity."

12 That is the essence of it?

13 A. That's right, yes.

14 Q. We come then to a section that's on page 409, that's
15 headed, "These Are Our Bairns". Is this a Scottish
16 Government publication?

17 A. I think we are now moving into the Scottish Government
18 era, so I'll stop making that mistake.

19 Q. Yeah, we are now in 2008.

20 LADY SMITH: Although for a while post-1998 of course it was
21 the Scottish Executive, and it was only when the SNP
22 came into Government that they renamed the Scottish
23 Executive the Scottish Government.

24 MR MACAULAY: This really focuses upon this idea of
25 corporate parenting, doesn't it? This piece of work?

1 A. That's right, and so building again, as I've said, on
2 previous work in this area.

3 Q. We see that this publication, if you look towards the
4 bottom half of that page, summarises three key elements
5 of corporate parenting?

6 A. Yes.

7 Q. What are these?

8 A. They're all parts of a Local Authority co-operating
9 promoting the welfare of children and young people who
10 are looked after, it's not just the idea that it's the
11 social work department and a duty on other agencies to
12 co-operate with councils, so voluntary agencies and
13 suchlike.

14 The co-ordination of activities of different
15 professionals and carers who are involved in a child or
16 young person's life and how that may best be done.

17 Then again it's that idea of shifting the emphasis
18 from corporate to parenting. Again, I noted when I was
19 preparing that the Independent Care Review highlighted
20 that corporate parenting sounds very bureaucratic, but
21 at this time it's that recognition that the focus should
22 be on parenting rather than the corporation or the
23 corporate.

24 Q. At this time this whole idea, it is one of policy, as
25 opposed to law?

1 A. Yes, although --

2 Q. At this point? In 2008?

3 A. Although the practice had been developing and there were
4 examples of specific corporate parenting approaches,
5 which had been adopted by Local Authorities prior to
6 2008.

7 Q. Yes. But I think the concept of corporate parenting
8 being there as a matter of law comes out of -- is it the
9 2014 Act?

10 A. It's the 2014 Act.

11 Q. Yes.

12 LADY SMITH: Before then, so far as the law is concerned,
13 you are really no further forward than the statutory
14 duty on the local authorities to co-operate on promoting
15 the welfare of children?

16 A. Back to the Children (Scotland) Act 1995, there were
17 children's services plans which had again started that
18 process of how the different agencies and different
19 departments would come together in relation to children
20 and young people.

21 LADY SMITH: Early green shoots without it having made its
22 way into statutory provision?

23 A. Yes.

24 MR MACAULAY: The Act, just to get it into the transcript,
25 is the Children and Young People (Scotland) Act 2014?

1 A. Yes.

2 Q. There are sections there dealing with corporate
3 parenting, with a schedule that lists the
4 agencies/organisations who are seen as being corporate
5 parents?

6 A. And which expanded the list, the notion of which
7 agencies which might be considered corporate parents.

8 Q. The reason I raise the reference to the schedule is the
9 Legal Aid Board apparently are a corporate parent.

10 A. And I know that universities are.

11 LADY SMITH: It's a slightly difficult concept to get your
12 head around. If you take the Legal Aid Board for
13 instance, but we just us, we don't do parenting of
14 children and then you have to explain you're part of
15 a network, all of whom at any time may be called on to
16 give some input into the life of a child in care.

17 A. Yes.

18 LADY SMITH: Yes.

19 MR MACAULAY: Without reference to the schedule and the Act,
20 you yourself at page 410, the first main paragraph, you
21 set out what you describe as a wide range of
22 organisations and services about their role as corporate
23 parents, so we have the Scottish Government, chief
24 executives, community planning partnerships, social work
25 services, education services, health services, housing

1 services, the independent sector, police and criminal
2 justice system, culture, leisure, community learning and
3 development services and corporate services. So there
4 are a whole list of agencies?

5 A. Absolutely. I think that is -- you know -- and I think,
6 as you say, some agencies who hadn't thought of
7 themselves in this position before are having to think
8 deeply about what this means in terms of their practice
9 in relation to engagement with children and young
10 people.

11 Q. The next section on page 410 poses the question: how
12 good is our corporate parenting? I think this is on the
13 back of an HM Inspectorate of Education publication in
14 2009?

15 A. Yes.

16 Q. What was that publication?

17 A. That was the improving services for children, how good
18 is our corporate parenting? How good can we be? So
19 it's looking at agencies to ask themselves: what are we
20 doing in relation to this? What have we achieved? How
21 good is our delivery of services? What needs to change
22 in order to improve the different aspects of corporate
23 parenting?

24 Q. It's really a direction to agencies for self-reflection
25 and examination?

1 A. Yes, that's right, and self-reflection has been a part
2 of the regulatory framework in different contexts.

3 Q. To answer the question, how good is our corporate
4 parenting, the answer to that doesn't come from HM
5 Inspectorate?

6 A. No.

7 Q. It's for the agencies themselves to consider?

8 A. That's right, yes.

9 Q. As you tell us, the guide that was published provided
10 templates, examples of good practice, along with
11 a self-evaluation model?

12 A. Yes.

13 Q. So they could evaluate themselves as to where they were?

14 A. Yes. Increasingly this idea of however you might
15 question the term "corporate parenting", but how
16 agencies in their different engagements with
17 care-experienced children and young people address
18 issues so that it remains child centred.

19 Q. The term "parent" is perhaps -- it's not difficult to
20 grasp, because we know what a parent should do, but does
21 that reflect the thinking here that the corporate parent
22 should be acting like the way a parent acts?

23 A. Absolutely. I mentioned that prior to this there had
24 been examples, one of these was in Inverclyde Council,
25 where the members of the senior executive team, each one

1 was paired with two looked-after children in Inverclyde
2 Council. If issues arose, it was those senior managers
3 who needed to address or become involved in addressing
4 things. An example given was that the director of
5 education, one of the young people he was responsible
6 for was excluded from school. He was in a position then
7 to look at that. He then rewrote the exclusion policy
8 of the council on the basis of that experience.

9 It's the idea that individuals -- so it's not the
10 corporation, it's not the social work department, it's
11 the individuals and if need be senior individuals are
12 taking responsibility, taking responsibility for
13 children and young people.

14 Q. Can I take you to page 411. You have a heading,
15 "Improving Social Work in Scotland". Here you are
16 drawing attention to a report by the Social Work
17 Inspection Agency in 2010. This is a report on its
18 Performance Inspection Programme between 2005 and 2009;
19 is that right?

20 A. That's right, yes.

21 Q. Can you just explain what is the Performance Inspection
22 Programme?

23 A. That would have been the inspections that the Social
24 Work Inspections Agency were carrying out over that
25 period, so in a sense this is pulling together

1 information from the range of inspections that it would
2 have been carrying out.

3 Q. Would these inspection have been inspections of the
4 services or for residential establishments or both?

5 A. To be honest, I can't remember now the specific role of
6 the Social Work Inspection Agency, although it had, as
7 I understand it, a range of inspection functions.

8 Q. I think, and we may hear this, the Social Work
9 Inspection Agency would also inspect Local Authorities?

10 A. Yes.

11 Q. And they may assist or be involved in inspection of
12 homes, so they had both these functions?

13 A. Yes.

14 Q. You set out here that the report identified five themes
15 at the core of policy and practice for children and
16 families. You list these and I'll just pick out two.

17 The third down, we're back to corporate parenting:

18 "Supporting councils to discharge their
19 responsibilities as corporate parents."

20 Again, we come to this recurrent theme:

21 "Listening to and acting on the views and wishes of
22 children and young people who are looked after."

23 A. That's right.

24 Q. We are given some information on statistics and we're
25 looking at the period 2005 to 2009, that although the

1 child population in Scotland, that is the general child
2 population in Scotland, fell over the period, there were
3 significant increases in the numbers of children in
4 Scotland looked after at home and away from home.
5 I think it identified a high correlation between
6 deprivation and the numbers of looked-after children?

7 A. That's right.

8 Q. And the impact of increased prevalence of parental
9 addition?

10 A. Yes.

11 Q. Do we see that in other research, is deprivation and
12 drug addiction a problem?

13 A. Deprivation is highly correlated and there has been
14 research which has shown the link between deprivation
15 and physical abuse in the home. There are issues about
16 communities which suffer deprivation in relation to
17 youth offending, so there are a whole range of links
18 going on.

19 I think over this period there were increasing
20 concerns also about parental addiction and the number of
21 children and young people who were coming into care
22 because of both alcohol and drug misuse.

23 Q. I think we do know in Scotland we do have a drug problem
24 still?

25 A. Yes.

1 Q. Then, on page 412, the report highlights both good
2 practice and not so good practice. If we look towards
3 the top of the page:

4 "The report highlighted good practice of listening
5 to children and young people, representing their views,
6 and working in partnership with parents and families."

7 A. Yes.

8 Q. But there is a qualification that there were significant
9 barriers to what they call a fully personalised
10 approach. Can you just develop that?

11 A. Certainly, issues about the quality of assessment,
12 I think we talked earlier about decision-making in
13 relation to when children and young people might have to
14 come into care and obviously one of the issues around
15 that is the quality of information and the way that that
16 is put together in terms of assessments.

17 There's been a long issue about drift in care
18 planning, about the length of time that children might
19 be in care before decisions about their long-term care
20 might be made. Concerns either about the push to return
21 children to their home when their home situation might
22 not be ready, leading to the revolving door of children
23 coming into care, going home, coming back into care.
24 But also then on the opposite side of children remaining
25 in placements which started off as short term, become

1 medium, almost long term, before decisions are made
2 about their long-term future.

3 Issues in terms of -- again, this has been
4 a recurrent theme, about strategic commissioning of
5 services. Knowing which services you need and being
6 able to provide those services.

7 Q. In relation to corporate parenting, the third paragraph
8 down, the report found that councils were at different
9 stages in putting corporate parenting into action. So
10 there was --

11 A. That's right. I think they were just generally --
12 different authorities were putting ... and putting it
13 into action in different ways. So I think that's an
14 issue about variability.

15 Q. The report identified a number of factors that would
16 contribute to effective services.

17 The second point down is schools had named teachers
18 or co-ordinators, so that is something that has
19 developed?

20 A. That's right. This developed both in terms of the
21 education of children and young people, so that in
22 schools there would be individual teachers who would
23 have responsibility for care-experienced children and
24 young people who were attending the school.

25 There were also looked-after children, nurses

1 developed, again, to address the issues in terms of
2 health. It's the idea of -- it's not just social, it's
3 the idea within schools that they were taking
4 responsibility for children and young people in care.

5 Q. The last sentence on that page we're told the report
6 discussed the issue of stability and found that too many
7 children and young people had "experienced uncertainty
8 and drift in their placements, without a focus on
9 planning and achieving a permanent placement at as early
10 a stage as possible".

11 A. Yes.

12 Q. I think that is the drift and planning you mentioned
13 before?

14 A. That's right.

15 Q. But also in relation to placements?

16 A. That's right, yes.

17 Q. We'll come back to this later, but the notion of
18 achieving -- I think you refer to it later in your
19 report as permanence, that is a particularly important
20 notion?

21 A. It is, but again there is the balance to be drawn
22 between achieving permanence for children and young
23 people and with the rights of parents to have
24 opportunity to look after their own children. So,
25 again, difficult decisions.

1 Q. But permanence, just to understand what it means, it can
2 mean, I suppose, adoption?

3 A. It can mean adoption or it could mean a long-term --
4 a placement where it is assumed and expected that the
5 child and young person would live until they reach
6 adulthood. That might be foster care, or it might be
7 residential care if that is seen as most appropriate.

8 Q. This is developed, just below halfway, where we're told
9 that the review highlighted that the permanency planning
10 should be the primary objective for all placements and
11 should begin as soon as possible.

12 How does that fit in with the fact that that might
13 cut across the rights of families to have their
14 children?

15 A. Well, that is one of the big issues. I mean, there have
16 been criticisms of the UK policy of forced adoption,
17 because that is seen as almost going back to the
18 migration -- I mean, it has been placed in the same
19 context as the migration schemes of the past of removing
20 children from their parents.

21 I don't agree with that, but it's just that there
22 are different perspectives in relation to such
23 decisions.

24 LADY SMITH: When you're talking about "forced adoption",
25 what circumstances are you referring to?

1 A. Well, that's where a Local Authority or co-ops(?) would
2 agree that a child should be adopted --

3 LADY SMITH: And in Scotland that --

4 A. -- even if --

5 LADY SMITH: Hang on, if you speak when I'm speaking it's
6 a nightmare for the stenographers.

7 A. I apologise, I apologise.

8 LADY SMITH: In Scotland we have the legal system whereby,
9 first of all, the Local Authority can seek to have the
10 child freed for adoption?

11 A. Yes.

12 LADY SMITH: So the birth link, the legal birth link is then
13 cut --

14 A. Yes.

15 LADY SMITH: -- and the Local Authority can look for the
16 adoptive parent, it may already have one in mind --

17 A. Yes.

18 LADY SMITH: -- and place the child for adoption with the
19 adopters, having separated the family away.

20 A. That's right.

21 LADY SMITH: I still think of that as a relatively recent
22 development, but I know it's been round a long time.
23 Something similar operates south of the border
24 I think, doesn't it?

25 A. I am using the term "forced adoption" which is used by

1 critics of the ability or that process.

2 LADY SMITH: It's not taking prospective adopters and
3 forcing them to adopt a particular child?

4 A. No, no, no, but it's that idea of removing children from
5 their parents in that way and there have been cases in
6 the UK where it's been criticised in terms of the
7 parental rights.

8 LADY SMITH: In the old days little or no effort was made to
9 teach the child from stage one of their life that they
10 were adopted, they had parents, let them know what was
11 known about their parents, the books, the boxes were
12 made up and so on.

13 I think that had begun by the late 1970s 1980s,
14 perhaps more through the adoption agencies than Local
15 Authorities and that's grown, but before then the idea
16 was you just pretend to the child that the adoptive
17 parents are their real parents?

18 A. That's right.

19 I think it's an aspect of that idea, the reason why
20 the United States have not signed up to the United
21 Nations Convention on the Rights of the Child, because
22 they feel by giving those rights they are removing
23 parental rights. It's an extension of that mode of
24 thought.

25 LADY SMITH: Of course. Thank you, Andrew.

1 Mr MacAulay.

2 MR MACAULAY: If we go back to the SWIA's Performance
3 Inspection Report, they go on to say in that same
4 paragraph that permanency was taking too long for the
5 growing number of children looked after away from home:

6 "Councils, as corporate parents, needed to do much
7 more to ensure that permanence was planned for all
8 children ..."

9 It goes on to say:

10 "... who were unable to live with their families."

11 A. That's right.

12 Q. That was the qualification?

13 A. That's right.

14 Q. The last sentence in the next paragraph, just to pick
15 that up, this review noted:

16 "... some of the poorest quality risk assessments
17 involved disabled children."

18 Intuitively one would have thought that the best
19 quality risk assessments would involve disabled
20 children.

21 A. I think the position of disabled children has been
22 problematic in the sense of issues about who is
23 responsible, and obviously there are a range of
24 disabilities, but in terms of physically disabled
25 children, the relationship between social work and

1 health, in relation to learning disabled children, the
2 relationship between social work and education, I think
3 impacts on the topics being discussed here.

4 Other research, I think I quote in here, talks about
5 disabled children being a hidden population in relation
6 to children and young people in care.

7 Q. Then moving on to the following page, where the report
8 sets out what effective practice would involve and there
9 is a number of bullet points, that is page 414.

10 Again, the third bullet point, this keeps coming up:

11 "Seeking the views of young people, parents and
12 carers."

13 A. Yes.

14 Q. The last paragraph, if I can take you to that, where it
15 says:

16 "There was also variation in the placement of young
17 people in secure accommodation. 'Levels of use did not
18 always correlate to the level of deprivation and
19 associated problems in an area, but more usually
20 reflected the range and quality of alternative
21 provision'."

22 Can I just understand what the message there is?

23 A. It's to do with the variation in terms of services which
24 might provide an alternative to secure care, which may
25 be to do with intensive support. It may be to do with

1 the quality of residential care in the area or suchlike
2 and the different -- again, this has been, going back to
3 earlier research on secure care, is that dependent on
4 those different services, that impacts on whether
5 a young person might be placed into secure care. Some
6 of the secure units have had open residential provision
7 and secure accommodation. It was found that often
8 children moved between the two in a way that wouldn't
9 happen for children in other forms of open residential
10 provision, for example.

11 Q. Finally, in relation to this report by the SWIA, the
12 review highlighted the need to improve strategic
13 commissioning of services. That's on the top of
14 page 415?

15 A. Yes.

16 Q. It sets out what that would require, a number of --
17 I think four bullet points?

18 A. Yes.

19 These continue to be issues in terms of the range of
20 services, but it comes up later in terms of the national
21 residential childcare review. There's been a recent
22 report -- I think it's called something like the
23 marketplace of care services -- that raised these issues
24 about how are the different services planned and
25 commissioned.

1 MR MACAULAY: My Lady, that might be a good point to stop
2 for lunch.

3 LADY SMITH: I agree.

4 I'll rise now for the lunch break and sit again at
5 2 o'clock, if that works for you, Andrew.

6 (1.01 pm)

7 (The luncheon adjournment)

8 (2.00 pm)

9 LADY SMITH: Are you ready for us to carry on?

10 A. Indeed.

11 LADY SMITH: Mr MacAulay.

12 MR MACAULAY: Before lunch, Andrew, we had looked at the
13 Social Work Inspection Agency report on its Performance
14 Inspection Programme over the period 2005 and 2009, and
15 that had taken us to page 415 of the report.

16 You have a short section after that with the
17 heading, "Getting It Right for Looked After Disabled
18 Children". I think we already touched upon this, but
19 you again indicate the challenges in identifying
20 disabled children and young people in care and the
21 impact this has on care planning?

22 A. Yes, that's right.

23 Q. One of the things that needs to be addressed is the
24 powerlessness that some disabled children feel; is that
25 right?

1 A. Yes, especially in situations where they may have
2 difficulty in communicating.

3 Q. The final section in this subsection, you look at the
4 Care Inspectorate publishing its first triennial review
5 of care in 2015, and that covered the years 2011 to
6 2014?

7 A. Yes.

8 Q. Is this a review generally of care and social work
9 services?

10 LADY SMITH: That is a triennial review, not a triennial
11 report?

12 A. Yes.

13 MR MACAULAY: It's a very short section, but is the message
14 here a positive one?

15 A. Yes, I think it's -- it's highlighting an improving
16 situation. This was covering all social services, so
17 there wasn't a huge amount of information in relation to
18 looked-after children, but it identified positive
19 examples in care.

20 Q. The next main section in this part of the report is the
21 education of looked-after children. We have already
22 looked at Roger Kent's work and you mentioned that and
23 in particular that there was increasing evidence about
24 the poor educational attainment of children in care?

25 A. That's right, yes.

1 Q. How is this developed? Because I think you look at work
2 that was done in about 2000?

3 A. That's right. There was an increasing focus on how to
4 address the education of children in care and the
5 mechanisms which needed to be put in place, both in
6 terms of the provision of care services, but also on the
7 part of education departments and schools.

8 Q. You tell us that the Scottish Office had funded a review
9 of education and care away from home and there was
10 increasing concern about how children in public care
11 fare within the education system?

12 A. That's right, yes.

13 Q. In particular there was clearly identified the lack of
14 research in Scotland?

15 A. That's right.

16 Q. But some policy and practice initiatives were
17 identified?

18 A. Policy and practice initiatives and Joe Francis at
19 Edinburgh University was also researching at this time
20 and highlighting some of the issues in relation to
21 children and young people in care.

22 Q. For example, there is a reference to South Lanarkshire
23 Council and what it had done?

24 A. That's right.

25 Q. What was that?

1 A. This was about in terms of the provision of link
2 teachers, so again it's about ensuring that teaching
3 staff could support children and young people in care in
4 terms of schools and in terms of the collaboration
5 between care and education staff.

6 I mean, Nigel Bruce, many, many years ago,
7 I remember he did research on the qualification of
8 social workers and teachers and found that the
9 difference in their perspectives grew over the period of
10 training, and he talked about it being like two
11 different cultures. I think that there was this concern
12 throughout that social work and education had different
13 agendas and didn't come together in relation to children
14 and young people in care.

15 Q. What sort of animal then would the link teacher be?

16 A. The link teacher would be someone who would link in with
17 the residential units for example and be the person of
18 contact, you know, should young people be having
19 difficulties at school.

20 Q. The teacher would be a teacher at the school --

21 A. Yes.

22 Q. -- where the young person was being taught?

23 A. I think part of the issue with the report is that in
24 terms of some of the different reviews and different
25 sections, because earlier we spoke about schools in the

1 early 2000s having a designated teacher in relation to
2 children and young people in care in the schools, but
3 the link teacher was linking up with specific
4 residential establishments.

5 Q. Is the reference to the link teacher for Inverclyde that
6 you mentioned in the next paragraph, is that a similar
7 sort of situation?

8 A. Similar idea, yes.

9 Q. The next subsection is headed, "Learning with Care",
10 this is on page 417. What you tell us is that in
11 March 2001 the Scottish Executive published Learning
12 with Care, which was a report on an inspection jointly
13 taken by HM Inspectors of Schools and the Social Work
14 Services Inspectorate, and that involved a sample of 50
15 children in residential homes that did not provide
16 education?

17 A. That's right, yes.

18 Q. These would be children who would be going out to
19 mainstream schooling?

20 A. That's right.

21 Q. Can you tell me what this inspection --

22 A. It highlighted in a sense the lack of focus on the
23 education of children in care. So that assessments
24 might not address educational needs, care plans didn't
25 have educational plans. I did a study of care reviews

1 in the 1980s and then, as described here, teachers were
2 rarely in attendance at reviews to address educational
3 issues.

4 Again, it's that lack of communication and
5 understanding about educational issues.

6 Q. Was there a finding here that in relation to this group,
7 that most of them were underachieving in comparison with
8 their peers?

9 A. No, that is exactly right. One of the concerns at this
10 time was because residential staff often didn't have
11 training themselves, that they might not have positive
12 experiences of education in a sense to support children
13 and young people in care.

14 Q. If you turn over to the next page, there is a particular
15 focus on foster carers and we see that this particular
16 study, in the first paragraph:

17 "Without exception, foster carers tried to provide
18 a positive environment for learning."

19 A. Yes, so that's foster carers and, again, it's partly to
20 do with their own experience.

21 Q. That's what we go on to read:

22 "... the majority had no personal experience of
23 further or higher education ..."

24 A. That's right.

25 Q. So there was a limit to what help they could provide?

1 A. Yes.

2 Q. Then there's some mention of residential units and what
3 support was available there. I think what is said is it
4 was variable?

5 A. Absolutely, yes, and some residential units made really
6 good efforts to support children in their education.
7 Others, there were issues in terms of provision of
8 support, provision of a quiet space to do homework. The
9 idea of having books and newspapers lying around and
10 suchlike.

11 Q. So there were limits essentially?

12 A. Yes.

13 Q. Following upon that report, you tell us that Scottish
14 Government commissioned what you describe as a package
15 of supporting materials, including training resources,
16 an information booklet and quality indicators?

17 A. Yes.

18 Q. Can you just help me with this, because part of the
19 input into that also involved Save The Children and Who
20 Cares? Scotland?

21 A. Yes, that's correct.

22 Q. What happened here?

23 A. At this time, Save The Children and Who Cares? were both
24 a partner in the Scottish Institute for Residential
25 Child Care, so they worked together with SIRCC in

1 developing a range of materials in order to support
2 residential and foster carers to themselves support
3 children and young people through their education.

4 Q. Save The Children and Who Cares? Scotland, they sought
5 the views and experiences of young people themselves?

6 A. Yes, that's right.

7 Q. If we go over the page, to page 419, can we read that
8 you tell us that young people identified a range of
9 issues that impacted on school attendance?

10 A. That's right, and again these are familiar issues,
11 placement changes leading to a move of school,
12 difficulties in transport arrangements, lack of support
13 in the care placement and negative peer pressure in care
14 settings.

15 Q. In addition to that there was a reference to the stress
16 they feel, because of their care status?

17 A. That's right.

18 Q. We see this on a regular basis?

19 A. That's right, that feeling of stigma and that concern
20 about their care status becoming known.

21 Q. There is this dichotomy, where some young people
22 welcomed respite from the care environment, while others
23 were stressed by going to school?

24 A. That's right.

25 Q. This notion of being in care, some, as you tell us in

1 that list, would be secretive or lying about being in
2 care?

3 A. Yes, it's that issue of stigmatisation of not wanting
4 their care status to be known.

5 LADY SMITH: What you're telling me, for my particular
6 interest, I suppose, Andrew, is that if you take a child
7 who is also abused in care, their starting point is in
8 any event one that is likely to have long-term negative
9 impact, even without the abuse?

10 A. Oh, absolutely.

11 LADY SMITH: If you add to the long-term negative impact of
12 being a child in care with the stigma and difficulties
13 that it may involve, that the child has long-term impact
14 in terms of long-term trauma effect, it's pretty tough?

15 A. We did a knowledge-exchange event looking at stigma with
16 a range of partners through -- I'm trying to remember --
17 the Strathclyde University, something Initiative,
18 Initiative Institute, something like that -- sorry, but
19 it was the different levels at which stigma impact on
20 children and young people.

21 There's the social stigma that we've talked about,
22 the social stigma of being in care. There's the stigma
23 in relation to the way in which particular services
24 might treat children and young people, but there's also
25 the internalised stigma that, you know, I'm in care,

1 I'm a failure, I'm not doing well at school, which then
2 lowers children's self-esteem and self-confidence.

3 Overlaid on that: the stigma if the young person has
4 been involved in offending; disability and stigma; the
5 stigma of abuse, as you said.

6 So there are whole levels of stigma impacting on
7 children and young people in care.

8 One of the effects is in relation to their
9 education. Again, this highlights the negative
10 attitudes of teachers at this time to children in care.

11 LADY SMITH: Can I just follow up on one thing, I am bearing
12 in mind you've got a background in social anthropology.
13 What are these fundamental assumptions that society is
14 making about children in care that are negative
15 assumptions?

16 A. I think that there are assumptions going back to the old
17 institutions that children are in care because they are
18 bad, they have done something wrong. But there are also
19 issues around the stigmatisation of poverty. We have
20 addressed the link between social deprivation and
21 children being in care.

22 There is the stigma around abuse and different forms
23 of abuse and these issues still come back, "They must
24 have deserved it", those sort of discourses can continue
25 in terms of sexual abuse.

1 LADY SMITH: Does the stigma from poverty go back to the era
2 where people assumed that having been living in poverty
3 you'd be dirty and diseased?

4 A. I think that there is that connection, but I think there
5 is also -- one colleague, Harry Ferguson, talked about
6 children as moral dirt, which was linked to that idea of
7 poverty. That idea still of the deserving and
8 undeserving poor, the welfare scroungers, which is
9 highlighted in TV programmes. There are still those
10 underlying links and assumptions. And the creation of
11 stigma, of asylum seekers, of issues to do with
12 ethnicity.

13 There was one anecdote of an unaccompanied -- this
14 is in Glasgow going back a number of years, who was
15 bullied and was asked:

16 "Oh, is it because of your race?"

17 "No, it's because I'm in the children's home."

18 So there's this layering and complex layering of
19 issues of stigma and stigmatisation.

20 LADY SMITH: I suppose there is also the old problem that
21 you have a child who is different from the majority, and
22 just as in the insect and animal kingdom you may see
23 a worker bee being excluded from the hive because
24 there's something strange about them that's different
25 from the majority, or the ants reject one of their own

1 because it can't carry the pine needles or something.

2 You see this in human behaviour as well?

3 A. Absolutely. It comes through in terms of bullying and
4 bullying behaviour.

5 LADY SMITH: Thank you.

6 Mr MacAulay.

7 MR MACAULAY: What is set out in this page in this report
8 and it's a 2003 report, so it's not a long time ago, is
9 that really children and young people who are in the
10 care system do have a steep road to climb on the
11 education front, because even their experiences in early
12 childhood affect their feelings about school, even
13 before they're in care --

14 A. No, that's right. This has been an issue of debate over
15 a number of years, about: are poor educational outcomes
16 because of the care system or are poor educational
17 outcomes because of the issues and trauma and experience
18 of children before they come into care? And to what
19 extent does the care system provide a remedial
20 environment to pick up or to recover on the earlier
21 educational losses?

22 There's not been a huge -- well, the research would
23 indicate that children and young people do better in
24 care in terms of educational outcomes. One of the
25 groups who fare less well are those who remain at home.

1 An American study looked at the outcomes of children
2 in small-group homes and foster care over a seven-year
3 period and compared it to those children who had been
4 there and went home. On almost every outcome measure
5 those who remained in care did better. They didn't
6 argue that that was a reason to keep them in care, but
7 that children needed to be supported when they were in
8 the home setting.

9 Q. Although, what is said here in the next little bit is
10 that for those in residential care homes, "... were
11 described by many as being too distracting to allow
12 serious efforts to study". One can perhaps understand
13 that.

14 A. I think that's one of the issues.

15 One is about the variability.

16 One is that -- I think there has been quite a bit of
17 movement since the early 2000s and now, because often
18 there wasn't that recognition even of the issue as we've
19 seen in terms of assessment and care planning.

20 Q. Another problem for this group of children is that some
21 of them leave school early because either for crisis or
22 a negative school experience, lack of motivation or lack
23 of support?

24 A. Yes.

25 Q. I think later on in your report you see children leaving

1 at 15 or 16.

2 This particular report made several recommendations
3 that you set out in the bottom section of page 420,
4 again focusing on the need for continuing support for
5 education?

6 A. That's right.

7 Q. The care placement had to provide a conducive learning
8 environment?

9 A. Yes, and I think for long periods there wasn't that
10 environment. There weren't the quiet spaces for study.
11 There wasn't the support for children in relation to
12 their education and school work.

13 Q. In the next section then on page 421, you draw attention
14 to the setting up of a working group by the Scottish
15 Government to consider the educational outcomes for
16 looked-after children and young people. I think that
17 was set up in 2006 --

18 A. Yes.

19 Q. -- and reported in 2007.

20 This working group identified five key themes that
21 you set out on that page?

22 A. Yes, that's right.

23 Q. If you just take the last bullet point, "Feeling safe
24 and nurtured in a home setting" is one of the key
25 elements?

1 A. Well, that's right. And certainly if there are concerns
2 about your safety and security, then that detracts from
3 the emotional space you need to be able to succeed
4 educationally.

5 Q. You go on to say that this working group recognised
6 there had been some progress in developing educational
7 elements in this situation?

8 A. Yes, that's right.

9 Q. In particular:

10 "... Local Authorities had developed or revised
11 joint policies and protocols aimed at improving
12 educational outcomes ..."

13 A. Yes.

14 Q. The reference to Local Authority education
15 establishments having a senior manager with designated
16 responsibility for looked-after children, could I just
17 ask you about that. Would that be somebody within the
18 authority itself?

19 A. I'm thinking that will be schools.

20 Q. At the school?

21 A. Yes. It's a rather long-winded way of saying that.
22 I think that that -- as was identified in terms of
23 Extraordinary Lives and designated teachers, I think
24 this was a further step in terms of supporting children
25 and young people in school.

1 Q. If you go over to the next page, 422, again we're
2 looking at what the working group set out, and we're
3 told that Scottish Government committed to fund the
4 appointment of a senior executive in each Local
5 Authority to focus on improving educational outcomes for
6 looked-after children. At least in this instance it's
7 somebody within the Authority with that responsibility?

8 A. Yes.

9 Q. The next paragraph, you refer to the notion that
10 educational outcomes of looked-after children had to be
11 considered in the course of inspections?

12 A. Yes.

13 Q. That's one of the things --

14 A. That again is, you know, the role of HMIE in terms of
15 their function.

16 Q. The importance of health in connection with education is
17 identified on page 423 and it's the second-last
18 paragraph, where the last sentence tells us that the
19 health of looked-after children should also be reviewed
20 by the Care Commission as part of the inspection
21 process?

22 A. Yes, that's right.

23 Q. Then if we go on to the next subsection on page 424,
24 from that page, I think to page 428, you set out some
25 initiatives and research addressing the education of

1 looked-after children and young people?

2 A. That's right, yes.

3 A range of projects I suppose to support the
4 education in a broader sense through encouragement of
5 reading and suchlike and literacy.

6 Q. If we go on to page 425, it's the last paragraph where
7 you draw attention to South Lanarkshire Council
8 appointing a residential worker in each of its care
9 homes as a literacy co-ordinator?

10 A. Yes, that's right.

11 Q. That's to promote the education of children?

12 A. Yes. I think again it's that idea of education in
13 a broader sense, so there's the support in terms of
14 school and homework and such, but this is that idea of
15 more generally investing in literacy for children.

16 Q. As part of this programme you tell us the council
17 commissioned a storytelling project --

18 A. Yes.

19 Q. -- in order to increase young people's confidence?

20 A. Again there have been other examples of that, of story
21 telling being used in residential care to promote that
22 idea of more general excitement in stories and
23 literature.

24 Q. If you're looking at younger children just as a parent
25 might tell a story?

1 A. Absolutely, the bedtime story.

2 Q. Going on to page 427, you draw attention to the
3 Letterbox Club Scotland that was rolled out nationally
4 in 2014. I think this is an idea borrowed from south of
5 the border?

6 A. That's right, yes.

7 Q. What did this involve?

8 A. Again, there it was -- I'm trying to remember now.

9 Oh, yes, so this was that idea of the Letterbox Club
10 is in relation to providing books, stationery, maths
11 games, so that children and young people have that
12 access to books and literature, because, as I mentioned,
13 again in the past it was often found that in residential
14 care there wouldn't be a thought that there should be
15 books lying -- there should be a bookshelf and suchlike.

16 Q. I think the experience from south of the border was that
17 it could be seen that children who participated in this
18 scheme saw significant improvement in their reading?

19 A. Yes.

20 Q. The next subheading you have relates to "Designated
21 Managers and a Framework for Educational Outcomes".
22 I think what you tell us is that in 2009 the Scottish
23 Government published core tasks for designated managers
24 to clarify the roles and responsibilities of the
25 designated person and provide guidance to them.

1 So this is a Scottish Government initiative?

2 A. That's right. It's taking forward some of the
3 initiatives earlier in terms of either link teachers or
4 teachers with responsibilities, so these are the
5 managers now who co-ordinate in relation to looked-after
6 children and young people, to ensure that their needs
7 are being met.

8 Q. In the following paragraph, you say:

9 "In brief, the designated manager in the school ..."
10 This person is located in the school?

11 A. Yes.

12 Q. "... held a co-ordinating brief in relation to all
13 looked-after children ... in the establishment ..."

14 A. Yes, and then the equivalent manager in residential
15 establishments from also addressing that from the other
16 end.

17 Q. That's what you tell us on page 428?

18 A. That's correct.

19 Q. We have a designated manager in the school and we have
20 one in the residential unit?

21 A. Yes.

22 Q. Then can I then turn to the next main section on
23 page 428, where you are dealing with the health of
24 looked-after children and young people. You begin with
25 a subheading, "Psychiatric disorder among children".

1 Here you are referring to research in 1996 and 1997
2 about children's mental health at admission?

3 A. That's right --

4 Q. What was disclosed by this research?

5 A. It identified common disorders, such as conduct disorder
6 and depression, and while these mental health issues
7 were being identified or identified through the
8 research, they're often not being referred on for
9 psychological help, so these mental health issues
10 weren't being picked up on at that point.

11 Q. They're missing out on early intervention, essentially?

12 A. Yes.

13 Q. You then refer to another survey in 2002/2003 of the
14 health and mental health of looked-after children. You
15 set out the main aims of the survey, for example to
16 determine the impact and burden of children's mental
17 health problems in terms of social impairment and so on?

18 A. Yes.

19 Q. The survey also looked at general health?

20 A. That's right.

21 Q. We're given some details as to the numbers involved. We
22 read at the bottom:

23 "Among young people in Scotland looked after by
24 local authorities, 45 per cent were assessed as having
25 a mental disorder; 38 per cent had clinically

1 significant conduct disorders; 16 per cent were assessed
2 as having emotional disorders ... and 10 per cent were
3 rated as hyperactive."

4 These look like very telling statistics?

5 A. Absolutely. The research by Howard Meltzer and
6 colleagues, the study in Scotland paralleled another
7 study in England. Although it had been identified that
8 children and young people in care had high levels of
9 mental health issues, this was a large-scale survey
10 which really detailed the extent to which this was the
11 case.

12 Q. In the first main paragraph on page 430, you look at the
13 subject of self-harm or indeed suicide and you give us
14 some statistics in connection with that, from this
15 survey. What you tell us is that the rate of self-harm
16 in Scotland was more prevalent among older children and
17 you give the age range of 11 to 17, and that's
18 28 per cent, than younger children?

19 A. Yes.

20 Q. Among those in residential care, you have 39 per cent in
21 the survey, compared with children placed with their
22 birth parents of 18 per cent, or indeed foster care,
23 where the percentage is much lower at 14 per cent?

24 A. Yes. Over the years the use of residential care has
25 tended to be for older children, adolescents, and that

1 group of adolescents often exhibit high levels of mental
2 health issues and suchlike. In a sense it's not
3 surprising that those levels of mental health issues are
4 there in terms of residential care, because often those
5 children and young people could well have previously
6 been in foster care and moved on.

7 Q. But the figure of 39 per cent for those who self-harm
8 who are admitted to residential care again is quite
9 a telling statistic?

10 A. It is, very much so, because again it's self-harm as
11 a behaviour in reaction to previous trauma.

12 Q. Can I ask you about this next paragraph, where the
13 survey found that there was often a mismatch between the
14 carer's view of whether a child had a clinical disorder,
15 with both under and overreporting by carers?

16 A. I think that that's highlighting the importance of
17 clinical input in terms of assessment of mental health
18 issues, and not just to rely on the reports of carers in
19 relation to those issues.

20 Q. Because carers wouldn't have the clinical skills --

21 A. That's right.

22 Q. -- to make any assessment?

23 A. Yes.

24 Q. If you could turn on to page 432. Here I think we're
25 still looking at the same national study and at the top

1 of the page we can read that children with special
2 educational needs were more likely to be found in
3 residential placement, and you have 51 per cent, than
4 with foster carers, or living with their parents, where
5 the figures were the same, 29 per cent.

6 Again, looking at that, that's quite a telling
7 statistic?

8 A. Yes, and I think for similar reasons, in terms of
9 residential care will be accommodating children and
10 young people with more complex issues.

11 Q. Of these, three-quarters with special educational needs
12 were also classed as having emotional and behavioural
13 difficulty?

14 A. Yes.

15 Q. So it's not just the education issues --

16 A. That's right.

17 Q. -- there are mental health issues?

18 A. Yes.

19 Q. I think in the middle paragraph you say:

20 "Finally the survey considered social networks and
21 lifestyle behaviours."

22 We are told that half the children reported they
23 could definitely confide in their friends, but
24 16 per cent said they could not confide in their friends
25 at all, so we have a majority, but not a significant

1 majority?

2 A. Again, research generally as ... children and young
3 people in care value their friendship groups and often
4 express concern or frustration when they are removed
5 from those groups.

6 Q. This report looked at lifestyle issues and we read in
7 the next paragraph, with this group that the prevalence
8 of smoking among them was very high?

9 A. Yes, that's right.

10 Q. Going on to say that more young people in residential
11 placements were current smokers, so in particular in
12 residential placements?

13 A. Again there's the link then with age, these are
14 adolescents.

15 Q. You tell us in the next paragraph that young people aged
16 11 to 17 were asked about drug use, cannabis being the
17 most reported drug. And almost two-fifths had used it
18 at some point. So looking at young children still?

19 A. Yes.

20 Q. We're told from this report that the greatest
21 proportions were found among children in residential
22 care?

23 A. Yes, but, again, I think partly to do with age.

24 Q. The final lifestyle area that this survey investigated
25 with young people aged 11 to 17 was about their sexual

1 behaviour?

2 A. Yes.

3 Q. Nearly two-fifths, that is 38 per cent, reported that
4 they had had sexual intercourse?

5 A. Yes.

6 Q. A further 17 per cent reported being sexually abused or
7 raped?

8 A. Yes, and that's a significant figure.

9 Q. I'll take you next to the subsection on page 434 that's
10 headed towards the bottom, "The Health of Looked-after
11 Children".

12 This was part of the Extraordinary Lives review that
13 we looked at, that the Social Work Inspection Agency
14 commissioned a review of the health of looked-after
15 children.

16 A. Yes.

17 Q. Are you able to summarise what the findings were in this
18 instance?

19 A. Again, it highlighted the issues around socioeconomic
20 inequality and its impact in relation to diet, physical
21 activity. We have spoken just then about smoking,
22 alcohol and drug misuse and also in terms of risky
23 behaviour. It highlighted the extent of mental health
24 issues for children and young people in Scotland and in
25 relation to suicide and deliberate self-harm.

1 That said, it concluded that despite these adverse
2 factors, the current general health of the majority is
3 good, with qualifications. Partly that was to do with
4 risk-taking behaviour and the second is to do with
5 mental health issues.

6 Q. I think the conclusions of the review were set out on
7 page 436 and we read in that first main paragraph:

8 "The review concluded that while looked-after and
9 accommodated children and young people tended to express
10 the same concerns about their health as children across
11 Scotland, differences lay in the challenges they face
12 ..."

13 A. That's right. This touches on some of the issues we
14 have mentioned before, of multiple placements, of
15 ensuring that records, health records, keep up with
16 children and young people to ensure that in the
17 different care settings there are those -- I was going
18 to say prompts, there are those supports to ensure that:
19 children are going to see the dentist regularly; that
20 children are having medical checkups, if required; that
21 vaccination programmes are taking place.

22 Q. But is attention drawn to some recent initiatives and
23 what is described as the fast-developing use of
24 specialist looked-after children nurses in schools?

25 A. Yes, that's right, and the links that those looked-after

1 children's nurses would have with children in care and
2 with residential units.

3 Q. I think you mentioned this also later, but does this
4 tell us that in a particular school there would be
5 a dedicated nurse who would be looking after children
6 who were looked-after children?

7 A. Or responsible to ensure that the health needs of
8 looked-after children are being addressed.

9 LADY SMITH: It could be a nurse who would be there anyway,
10 but she has as one of her responsibilities looking after
11 the looked-after children?

12 A. That's right.

13 MR MACAULAY: If we move on to page 437, you have a
14 subsection dealing with the mental health and well-being
15 of children and young people in residential care. Here
16 you tell us about a bulletin published by the Care
17 Commission in 2009, fairly recently, addressing the
18 mental health of young people in residential care. That
19 was based on inspections carried out in 2007 to 2008?

20 A. That's right.

21 Q. We can see from the information you've provided that
22 that involved inspections of 240 residential services --

23 A. Yes.

24 Q. -- and 197 care homes and 37 residential special
25 schools?

1 A. Yes.

2 Q. It was a wide-ranging series of inspections?

3 A. That's right, yes.

4 Q. What then did the Care Commission find in relation to
5 the mental health needs of the children?

6 A. I think it picks up on some of the concerns that have
7 been identified earlier, particularly in terms of the
8 assessment of mental health needs and that these
9 assessments were problematic in that they -- either they
10 weren't taking place or they weren't picking up on the
11 mental health needs of children and young people in
12 care.

13 Again, it mentions the introduction of looked-after
14 and accommodated children's nurses in terms of improving
15 that assessment, but in terms of the range or the number
16 of recommendations, 90 recommendations, 44 requirements
17 for over half of the services that had been inspected at
18 this time.

19 Q. That suggests, does it, that there's still quite a bit
20 of work to be done?

21 A. That's right, yes.

22 Q. The Care Commission report goes on to say the quality of
23 services was generally good --

24 A. Yes.

25 Q. -- and did well in addressing mental health issues?

1 A. Yes, and the Scottish Institute for Residential Child
2 Care had been established at the start of the -- in 2001
3 and did a number of short courses. One of those courses
4 in demand was in relation to mental health issues,
5 self-harm, problematic behaviour and so was contributing
6 to address this issue.

7 Q. To whom were these courses directed?

8 A. Residential childcare staff.

9 Q. If I move on to page 438, the Care Commission -- perhaps
10 if I go back to the bottom of page 437, because down at
11 the bottom of the page the Care Commission identified
12 three areas that needed significant improvement?

13 A. Yes.

14 Q. Can you --

15 A. Again, this is to do with the work with health
16 colleagues in terms of assessment of mental health needs
17 at the point of admission. This was an issue identified
18 earlier.

19 Again, training of staff in terms of working with
20 children of substance, misusing parents, again, that was
21 an issue that had been flagged up as an increasing
22 concern but also better help for young people to move on
23 from services.

24 Q. Do they say then that that is the area really in which
25 residential care services needed the most improvement?

1 A. That's right.

2 Q. The aftercare?

3 A. That's right. One of the issues identified with secure
4 accommodation as well, because there might be services
5 to address the mental health needs of children and young
6 people while they're in secure care, but that tends to
7 be for a relatively short period of time, so how can
8 that be continued when children and young people move on
9 from secure accommodation?

10 Q. In the next paragraph, the Care Commission focus upon
11 the broad problem caused by substance misuse?

12 A. Yes.

13 Q. In particular the Care Commission note an increasing
14 number of children and young people in care who are
15 affected by substance abuse either because they
16 themselves abused substances or their parents abused
17 substances?

18 A. It's right.

19 Q. The inspections disclose that in 16 per cent of services
20 there were no procedures for working with misusing
21 parents or that they were inadequate?

22 A. Yes. Again, that's a significant number and highlights
23 the gap I think in terms of working with parents. It
24 identifies that most services had training in working
25 with young people affected by substance misuse, but

1 there's that issue of engagement with parents.

2 Q. We read that in one-fifth of services, which is quite
3 a significant number, the Care Commission made
4 recommendations that staff needed to improve their
5 knowledge about services for substance-misusing parents?

6 A. Yes.

7 Q. The focus here is on parents?

8 A. Yes, that's right.

9 Q. But I think 91 per cent of services staff had had
10 training in working with young people --

11 A. Yes.

12 Q. -- affected by substance misuse, that looks like
13 a positive figure?

14 A. That's right. There has long been an issue about the
15 relationships of -- some of the issues for residential
16 staff in particular to be working with parents and
17 engaging with parents. Not just in relation to
18 substance misuse but more widely. It's been argued that
19 residential care could provide useful outreach services
20 to support parents and families, but often that that
21 is -- or a barrier to that is the focus on the work with
22 children and young people within the unit itself.

23 Q. In the final paragraph on this page, 438, the Care
24 Commission I think touch upon a topic you had some
25 exchanges with Lady Smith earlier this morning. That

1 is:

2 "There had been concerns about residential staff
3 members' knowledge and practice in providing physical
4 comfort and being aware of appropriate boundaries."

5 The Care Commission have concluded that in most
6 cases practice in this area was considered appropriate.
7 Then the quote:

8 "In 96 per cent of services, staff felt comfortable
9 about physically comforting young people who were
10 distressed -- giving them a cuddle."

11 A. I think that's right, and I think that they said there
12 had been movement from some of the concerns in 1990s,
13 Roger Kent talked about providing a sterile environment
14 in residential childcare and work done in the Scottish
15 Institute for Residential Child Care was addressing this
16 in relation to residential staff.

17 Q. It would appear from what has been reported as to the
18 views of young people, they were quite happy about being
19 given a cuddle?

20 A. I think it's how it's done. I think young people will
21 say as long as it's done appropriately, "Is it all right
22 if I give you a cuddle?" In a sense to be asking not
23 imposing.

24 MR MACAULAY: We're just on to 3 o'clock, my Lady.

25 LADY SMITH: Would that work for you for a break just now?

1 the Care Commission issued requirements to seven
2 services."

3 A. Yes.

4 Q. It's as limited as that?

5 A. That's right. Generally a more positive conclusion in
6 relation to the ways in which the physical health of
7 children and young people in care were being addressed.

8 Q. By now the looked-after and accommodated children's
9 nurses are on the scene and have been on the scene for
10 a while?

11 A. Yes, that's right.

12 Q. Indeed, the Care Commission concluded that had improved
13 the situation?

14 A. Yes, and that services were addressing different aspects
15 of health, not just access to medical services, but
16 issues such as healthy living and nutrition in
17 a positive way.

18 Q. They also discovered that services were proactive in
19 ensuring health appointments were kept, because you
20 mentioned the dentist for example?

21 A. That's right.

22 Q. That sort of appointment was being kept?

23 A. Yes.

24 Q. Then if we look at their overall conclusion, and
25 I'll just read part of that out to you:

1 "Overall, residential care services are giving
2 looked-after children and young people access to good
3 healthcare and support to make healthy lifestyle
4 choices. This shows improvement in practice,
5 particularly around assessment of health needs and work
6 to follow up assessments."

7 The final sentence:

8 "Around 96 per cent of services were found to be
9 performing well when it came to physical health."

10 A. Yes.

11 Q. That is a very positive --

12 A. That is a positive and I think a real change in terms of
13 previous years.

14 Q. As we have seen as we have travelled this route, it's
15 quite a significant change to what had been there
16 before?

17 A. Yes.

18 Q. You then look at a briefing paper in 2010 by Wellbeing
19 in Sexual Health (WISH) on the importance of supporting
20 sex and relationships education for looked-after
21 children and young people. There would appear to be
22 a lack of research in this area and in particular as to
23 why -- and they highlight a number of reasons as to why
24 such persons would be at risk of poor sexual health and
25 exploitation?

1 A. Yes.

2 Q. And we have already looked at exploitation?

3 A. That's right and the research that was done by Meltzer
4 and colleagues which had addressed this issue had
5 highlighted some concerns about risky sexual behaviour.

6 Q. One of the points they make is that young children and
7 young people, moving on to page 440, may have limited
8 access to sexual health information, lack of
9 understanding of contraception and services and were
10 more likely to be a teenage parent?

11 A. Yes.

12 Q. Similarly, the staff in educational and residential care
13 settings could lack confidence and be anxious about
14 discussing sex with children?

15 A. That's right. Even more recently I was involved in
16 a European project addressing this very issue and these
17 points were highlighted in terms of the need for
18 training and support in order to engage with young
19 people about sex and sexuality.

20 Q. Would that training be directed towards the staff?

21 A. Yes, so that they can then themselves engage with young
22 people.

23 Q. Indeed, the conclusion I think by WISH, I'll read that
24 out:

25 "It is therefore vital that staff working in

1 educational, residential and social work sectors are
2 provided with appropriate training opportunities so that
3 they can respond effectively and proactively to the
4 sexual health and wellbeing needs of looked-after
5 children and young people."

6 WISH set out some actions that should be taken to
7 improve the position?

8 A. Yes, and talked about policy supports, but also the
9 training content that would support carers to engage in
10 this.

11 Q. You then move on to consider Scottish Government
12 published guidance on health assessments for
13 looked-after children in 2014. So moving along the
14 period that you're covering?

15 A. That's right, and the issue of health assessments had
16 been flagged up previously as an issue of concern, so
17 this guidance was to take this forward to try and
18 address the concerns.

19 Q. We can pick up one or two points from the guidance.

20 For example, in the first point, the young person
21 should receive a comprehensive health assessment within
22 four weeks of the NHS board receiving notification,
23 that's within four weeks of admission essentially?

24 A. Yes.

25 Q. The context I think into which this guidance was being

1 placed was the notion of the NHS as a corporate parent?

2 A. That's right. Again, it's that idea of ensuring that
3 the health needs are being addressed, both within the
4 care setting, but also that NHS staff are fully involved
5 in the process.

6 Q. If we go on to page 441 and the last paragraph in this
7 section, in the second sentence we can read:

8 "Over the past 12 years, the introduction of LAC
9 Health Services, Lead Nurses and LAC Health Teams;
10 paediatricians, and LAC nurses, have made significant
11 improvements in improving the health needs of
12 looked-after children."

13 A. Yes.

14 Q. We can see the change is quite dramatic from when we
15 started looking at the earlier part of this period?

16 A. That's right, but there is a "however".

17 Q. There is, and I'll come to that in a moment.

18 A. Yes, I think that since some of the early research that
19 has highlighted the health needs of children and young
20 people in care, that there had been significant progress
21 in addressing that and that the role of looked-after
22 children nurses and teams was important in that.

23 Q. But the "however"?

24 A. The idea that there's a consistent approach and that so
25 different Local Authorities and different NHS boards

1 would be addressing this in different ways, so the
2 "however" is to ensure that there's consistency as well
3 in how the issues are being addressed.

4 Q. Indeed, the Scottish Government says it is essential to
5 have consistency?

6 A. Yes.

7 LADY SMITH: Just a moment, Mr MacAulay, if I may interrupt.
8 That's a wonderfully easy thing to say, we are 32 Local
9 Authorities, geographically disparate areas, how on
10 earth do you achieve that?

11 A. Well, it may be a national social care service, but
12 I'm sure we'll come on to that as well.

13 LADY SMITH: My thinking goes back to what we looked at in
14 foster care for instance and how difficult it is, in
15 this tiny country, to achieve consistency of approach
16 and consistency of provision in foster care.

17 A. But there are also the two arguments, yes, you need
18 consistency but also you need local responses to local
19 situations and local context. The situation in Glasgow
20 is very much different to the situation in the
21 Highlands.

22 I suppose that while overall there needs to be
23 a consistent approach, there also needs to be
24 recognition of the need for flexibility based on local
25 and geographical variation in Scotland.

1 LADY SMITH: Yes. Thank you.

2 MR MACAULAY: At least if one is seeking to achieve
3 consistency, let's say this is health we're looking at,
4 really the Care Commission or the Care Inspectorate who
5 have to look at health matters would at least be in
6 a position to push that?

7 A. That's right, absolutely. In discussions I've had in
8 terms of various issues, the National Health Service is
9 a huge organisation and it's about how you recognise the
10 levels and parts of the Health Service that need to be
11 drawn in, in terms of gaining that consistent approach
12 as well.

13 Q. The next main section that you look at is -- we touched
14 upon it earlier -- permanence planning. As you've
15 already told us, and as you set out here on page 441:

16 "The issue of the need for stability and permanence
17 had been highlighted for a number of years in policy and
18 practice, with concerns about delayed decision-making
19 and 'drift' in care."

20 A. Yes.

21 Q. Just so I can understand, "drift"?

22 A. Is that children and young people may come into care,
23 initially it might be intended that it's on a short-term
24 basis, for whatever reasons, there are delays in
25 decisions, that short-term placement becomes a more

1 long-term placement. There are still issues in terms of
2 decision-making, so that what might have been intended
3 to be a short-term placement could end up with children
4 being in care for years. This had been consistently
5 shown by research, in Scotland and down south, that for
6 a number of children there was ... it was picked up by
7 researchers in a number of pieces of research, which was
8 the leaving care curve, which was if children were in
9 for a relatively short time and left, they could leave
10 care, but the longer they'd been in, then it flattened
11 off and often then they were in long-term care and the
12 chances of return home, say, are much diminished.

13 Q. You introduce this section under reference to work that
14 has been done by the Scottish Children's Reporter
15 Administration, SCRA, in 2011?

16 A. Yes.

17 Q. This was research to explore pathways and
18 decision-making process through the care and court
19 systems to the point at which looked-after children were
20 adopted or achieved permanence?

21 A. That's correct, yes.

22 Q. As you discussed this morning, permanence could be
23 remaining for example in a foster care placement for
24 some time beyond when the child might be expected to
25 leave?

1 A. Yes.

2 Q. We see that the research had quite a large cohort of
3 children to look at. If we move over the page, all the
4 children came into contact with social work because of
5 concerns about care by parents?

6 A. Yes, that's right.

7 Q. It can be seen also that quite a number of these
8 children began receiving social work services when they
9 were very young?

10 A. Yes, that's right, and at point of birth even.

11 Q. For 61 per cent of the children, social work services
12 were already working with the family at the time they
13 were born and clearly although they were working with
14 the family when the child was born, ultimately the child
15 has ended up in care?

16 A. Yes.

17 Q. What then did this research find?

18 A. The conclusion highlighted the length of time that
19 decisions about permanence could take, so 39 per cent of
20 children, the process took more than five years, so if
21 you're talking about a very young or a baby, then the
22 first five years has been spent in care before the
23 decision for permanence is made.

24 Q. Would care in that sort of situation be with a foster
25 parent more likely or --

1 A. Foster care, because, as we said, residential care very
2 much tends to be adolescents, and so this would be in
3 foster care.

4 LADY SMITH: Particularly if it's work with the family, even
5 before the child was born?

6 A. Yes, that's right.

7 LADY SMITH: You may remember, Mr MacAulay, one of the
8 experts in our psychology of abusers round table talked
9 about the revolving incidence of children being born to
10 mothers in abusive households, where their child kept
11 being taken away from them and so they have another
12 child and another child and another child and it's not
13 safe to leave the baby in the house. Also foetal
14 alcohol syndrome can be the cause of that.

15 A. Yes.

16 MR MACAULAY: Before we come to the potential harm that lack
17 of permanence can cause, can we look at the positives
18 that the research identified in the next paragraph?

19 That is:

20 "Most children were identified at risk at an early
21 age and measures were put in place quickly to keep them
22 safe. Agencies worked effectively together to do this.
23 There was also evidence of local authorities trying to
24 keep sibling groups together in foster and permanent
25 care, and in making efforts to ensure stable placements

1 for children."

2 A. Yes.

3 Q. So there are some positives there?

4 A. That's right, yes.

5 Q. This notion of keep sibling groups together, I think we

6 read elsewhere that Local Authorities did try to do that

7 but sometimes that just wouldn't work?

8 A. Yes. Especially with large sibling groups, finding

9 those placements could be problematic. I think Local

10 Authorities have at times used quite innovative ways of

11 keeping sibling groups together. Again, going back to

12 the 1990s, in research that I did, that one Local

13 Authority took one of the council housing stock, put

14 residential staff in for a young sibling group, just for

15 the period that that sibling group was in care, so that

16 there are ways to address it, but it is problematic

17 nevertheless.

18 Q. The research highlighted the potential harm to children

19 caused by delays and instability in care. We have

20 talked about these already?

21 A. That's right, yes.

22 Q. But it also identified a number of areas for improvement

23 in decision-making and implementation. Can you perhaps

24 just summarise how they saw the road ahead?

25 A. The first discusses the issue that we discussed before

1 about discussion and guidance on rehabilitation with
2 parents, that balances the rights of parents and the
3 child and looks at the level of risk, the need for that
4 to be addressed.

5 A need for standards and management information at
6 all stages of the decision-making process.

7 Issues around movement and placements that a child
8 should experience, that takes into account age and stage
9 of development. I think with very young children one
10 would expect that a foster care placement would tend to
11 be stable, but with older children, where there might be
12 trauma-induced behaviour, then it might be more
13 problematic.

14 I think generally to look at the whole process of
15 improving communication, in terms of decisions over
16 time.

17 Q. On page 443 at the top of the page there's a proposal
18 for:

19 "A need to review Reporter decision-making and
20 improve its performance to ensure that the right
21 decisions are being made to safeguard the welfare of
22 children in the short and long term."

23 Could you flesh that out for me? What are they
24 getting at there?

25 A. I think that's in terms of the times that it might take

1 in terms of the Reporters making decisions about the
2 safety of children and risk.

3 Q. Might this be a child who has been taken into care but
4 the children's panel then become involved?

5 A. That's right, yes, because the Reporter might be making
6 decisions about the next stage.

7 Q. This clearly was an important piece of work and can we
8 see that the Scottish Government published a response to
9 this report in 2011 --

10 A. Yes.

11 Q. -- on page 443?

12 LADY SMITH: That was the same year as the report itself; is
13 that right?

14 A. Yes. This was taken forward. I think this was seen as
15 an important issue to move forward on.

16 MR MACAULAY: It's a prompt response?

17 A. Yes.

18 Q. Can we see that in that response, as to how actions
19 could be taken forward, that the Scottish Government
20 have identified five key areas? Can you just develop
21 these for us?

22 A. Assessment is obviously important in terms of ensuring
23 that information is being communicated in an appropriate
24 way.

25 Care standards in terms of placements.

1 The importance in relation to childcare planning.
2 Identifying good practice and disseminating that.
3 And a whole systems approach, which is another way
4 of talking about interagency and collaborative working.
5 Q. The Scottish Government itself planned to review
6 policies?
7 A. Yes.
8 Q. The reference to supporting Fife Council, was that some
9 sort of bespoke --
10 A. I can't recall exactly, one would assume that it was
11 work that Fife Council was doing in relation to this,
12 but I'm afraid I don't recall.
13 Q. Improve training and ensure the needs of looked-after
14 children were reflected in the new child-centred
15 inspection regime. Is that a reference to the regime
16 now being led by the --
17 A. Well, it would then be the -- starting to be the Care
18 Inspectorate, but generally it's that focus on
19 child-centred practice.
20 Q. The final point at the top of page 444, "Promote the use
21 of foster carers as adopters or permanent long-term
22 carers".
23 A. Again, that idea that initial placements might -- even
24 if that might have been considered to be a short-term
25 placement at the start, where possible that that might

1 become a long-term placement to give that stability.

2 Q. Would that involve some negotiation -- it clearly would?

3 A. Well, obviously with the foster carer, in terms of that
4 change in the role.

5 LADY SMITH: What about the risk that if you do that you
6 take the foster carer off your fostering books, because
7 their household can't take any more foster children?

8 A. One of the issues throughout this has been the shortage
9 of foster carers across the country. In a sense that
10 possibility is -- some foster carers thrive on providing
11 short-term placement, so again that is a balance that
12 needs to be struck.

13 LADY SMITH: We heard of the provision of fostering care
14 being in a state of crisis in some areas and I am
15 quoting one Chief Social Work Officer I think in saying
16 that.

17 A. Yes, and I think that has been the case over a number of
18 years, but that's correct.

19 LADY SMITH: Mr MacAulay.

20 MR MACAULAY: As we can read in your report, Andrew, central
21 to the proposals to bring forward the Scottish
22 Government ideas was the commissioning of CELCIS to, as
23 you put it, collate information, evaluate practice and
24 outcomes and provide access to suitable support in
25 implementing practice involvement.

1 A. Yes.

2 Q. What did that involve?

3 A. Well, they set up the Permanence and Care Team within
4 CELCIS and a programme plan was put in place and this
5 was the start of a process which is continuing to today,
6 but this is -- so this is a start-up phase. This is
7 about looking at key issues in terms of permanence,
8 looking at practice and processing improvements, working
9 with partners and then a reflective phase in terms of
10 evaluation and reporting.

11 Q. Is the Permanence and Care Team, PaCT, still operating?

12 A. Yes.

13 Q. At this time it was to run a programme in four phases
14 over a period of three years?

15 A. Yes, that's right. This was engaging with Local
16 Authorities and identifying particular issues in
17 relation to those Local Authorities that it was felt
18 needed to be addressed to support more rapid decision
19 making around permanence.

20 Q. In 2014, CELCIS produced a report on the impact of
21 PaCT's activities up until that point in time?

22 A. That's right.

23 Q. On the following page, 445, you do tell us that PaCT is
24 a relatively recent development, but already there are
25 signs that its work at both local and national levels

1 has positively influenced policy and practice?

2 A. That's right, and that was up until between 2012 and
3 2014, which is the point I sort of stopped this section
4 of the report.

5 Q. Although you do go on to look at some --

6 A. That's right, yes.

7 Q. Broadly, can you tell us what sort of impact PaCT had
8 been having up at least until this point?

9 A. At this point, as I say, it had been working with
10 a number of Local Authorities and engaging with them in
11 different ways, taking account of local circumstances to
12 look at the ways in which each of those Local
13 Authorities might improve practice in order to speed up
14 the process of decision-making.

15 Q. Then we come to a quite separate topic. It's one of
16 your main sections, that is throughcare and aftercare.
17 I think we mentioned aftercare this morning, but didn't
18 look at it in any detail.

19 What you do tell us, as an introduction to this
20 topic, is that over this period of the review there was
21 an increasing focus on issues of throughcare and
22 aftercare, and I'll talk about these in a moment:

23 "Research highlighted the poor outcomes for young
24 people leaving care to independence, and there were
25 significant developments in policy, practice, and

1 legislation."

2 In the past, let's say when a young person left
3 care, and there was no support and leaving care at 15 or
4 16?

5 A. Often at 16, yes.

6 Q. Clearly, very vulnerable --

7 A. That's right.

8 Q. -- to outside influences?

9 A. Yes, and often with very little support at all in terms
10 of the follow up in terms of them moving on to
11 independence, in terms of either getting more training
12 or in terms of employment or accommodation. So
13 increasingly over this period it was recognised that
14 services to support young people as they moved on into
15 independence or interdependence were absolutely crucial.

16 Q. You are using two concepts here, there is throughcare
17 and aftercare. What do you mean when you talk about
18 "throughcare"?

19 A. Throughcare would be the work that's done while children
20 are still in care in residential and foster care, to
21 support them towards living an independent life once
22 they do leave care. Issues about budgeting, issues
23 about self-maintenance and suchlike, issues about how to
24 get about getting a job, interview skills and suchlike,
25 so all those issues that a parent would give a young

1 person in their teens to support them to move on from
2 the family home.

3 Q. You tell us that the throughcare and aftercare working
4 group was set up in November 1999 to advise the Scottish
5 Executive --

6 A. Yes.

7 Q. -- on how to improve services for children and young
8 people leaving care. You say the working group noted
9 the findings of research that had identified
10 considerable variation in throughcare and aftercare
11 arrangements across Scotland and the fact that most
12 people had not received a planned throughcare programme?

13 A. That's right. So issues then about the whole planning
14 for a young person to leave care was absent.

15 Q. So if we look at the services that should be available,
16 according to the working group, although there should
17 not be a prescriptive model, there should be a nominated
18 key worker as a contact point for advice and assistance.
19 Would that be after the looked after had left care?

20 A. Yes.

21 Q. If we move further down, "Accessible resolution and
22 complaints procedures" is also highlighted.

23 A. Yes.

24 Q. What would the context of that be? How would the young
25 person want to complain? Would it be about the

1 accommodation or ...

2 A. I can't recall the specific details in relation to that
3 point, to be honest, so I think --

4 Q. I think we have seen already that young people's ability
5 to complain is an important aspect of care?

6 A. That's right, but we've also spoken about some of the
7 issues about bureaucratic mechanisms. I think it would
8 be in terms of rather than complaints about care
9 services but rather the specific processes of
10 throughcare and aftercare services.

11 Q. If we move on to page 446, we see that the working group
12 identified three main desired outcomes from the
13 throughcare and aftercare service. Could you just take
14 us through these, Andrew?

15 A. That is about making a successful transition to
16 independent living, because, as I say, often it was
17 a very abrupt transition of a young person being
18 supported in a care setting, residential or foster care,
19 to being totally independent, with no support.

20 That there should also be access to financial
21 support in terms of young people and that may be support
22 in terms of welfare benefits and suchlike.

23 But also to provide young people with --
24 an independent fast appeals and complaints system,
25 should the process of leaving care go awry.

1 Q. Looking to what would be key to throughcare, and indeed
2 aftercare, the working group highlighted that a needs
3 assessment would be essential?

4 A. Yes. Again, I think throughout the different stages of
5 a child and young person's life there needs to be clear
6 and accurate assessment of that young person's needs.

7 Q. The working group developed a framework for assessing
8 the needs of young people leaving care and concluded
9 that Local Authorities should be provided with materials
10 to help in carrying out assessments. So the assessment
11 would be by the Local Authority?

12 A. That's right, yes.

13 Q. I think the working group also considered that the young
14 people should be involved in the implementation process,
15 so that they are fully informed of the proposals and of
16 the throughcare and aftercare to which they will be
17 entitled?

18 A. This again is an increasing trend, that we're listening
19 to the voices of young people in order to develop
20 services, not just in terms of their own individual
21 journey, as it were.

22 Q. You then move on to look at some research in connection
23 with young people leaving care. In the early 2000s
24 a national survey of social work departments and other
25 service departments was carried out; is that right?

1 A. That's right. This was commissioned by the Scottish
2 Executive Government.

3 Q. If we turn on to page 447, can you summarise for me what
4 the research concluded or found in relation to what they
5 refer to as three-quarters of authorities?

6 A. Yes, so not all authorities had policy statements in
7 terms of throughcare and aftercare and many of the ones
8 that did, in terms of that, three-quarters of
9 authorities which had them, that they were very general
10 in scope and not addressing in any detail throughcare
11 and aftercare.

12 Q. The survey also identified a vulnerable group with
13 nearly a third having learning difficulties --

14 A. Yes.

15 Q. -- and two-fifths with mental health, emotional or
16 behavioural difficulties?

17 A. Yes.

18 Q. Indeed, most of the young people in this survey,
19 61 per cent, had no educational qualifications?

20 A. That's right and that reflects the issues around
21 education at that time.

22 Q. How does that impact on the vulnerabilities of these
23 young people when they leave care?

24 A. If they've no educational qualifications they're much
25 disadvantaged in the job market, that impacts on their

1 chances in terms of accommodation, so it has a huge
2 impact in terms of their life.

3 Q. In the study, only 40 per cent had received a planned
4 programme of preparation, which means, of course, that
5 the majority, 60 per cent, had not?

6 A. That's right, yes.

7 Q. That's a fairly depressing statistic?

8 A. That's right, so this highlights at that stage the stage
9 at which Local Authorities were at in terms of
10 supporting and planning for young people as they left
11 care to independence.

12 Q. Also we see in the next paragraph that almost
13 three-quarters of the young people had left care at 15
14 or 16 years of age --

15 A. That's right.

16 Q. -- and few had remained in care after their 18th
17 birthday. That, as the authors of the research point
18 out, is in comparison in the general population, where
19 children would for example stay on in school or live at
20 home until older?

21 A. Well, absolutely, and I think even more recently the age
22 at which young adults remain at home has been increasing
23 into their mid-20s and sometimes returning. That
24 highlights that difference then in that young people --
25 and young people often -- it was their choice, but the

1 choice in the sense that they just wanted out of the
2 system.

3 Q. Because only slightly over half of the young people in
4 the survey thought that they were well prepared for
5 independent living?

6 A. Yes.

7 Q. Which meant that a good number did not?

8 A. Absolutely.

9 Q. You go on to tell us --

10 A. If young people felt that they were well prepared may
11 not mean that they were actually well prepared.

12 Q. Just to read on the rest of what's in this paragraph:

13 "The young people in the survey tended to experience
14 instability in employment or training and accommodation.
15 By the end of the six months, almost two-thirds had
16 failed to find stable employment, education, or
17 training. Similarly, there tended to be instability in
18 accommodation."

19 That's, again, quite a depressing statistic?

20 A. It is. It is.

21 Q. If we perhaps look at the conclusion from this survey,
22 it's just below halfway on page 448, and I'll just read
23 that out:

24 "Our research has shown that young people leaving
25 care are a diverse group. It has also shown that they

1 are a vulnerable group ... However, major challenges
2 still remain to improve their life chances: providing
3 them with greater stability and continuity while they
4 are looked after; increasing the help available to
5 assist them with their education and careers; giving
6 them the opportunity for a more gradual transition from
7 care more akin to other young people's journeys to
8 adulthood today; ensuring better all-round preparation
9 for leaving care; and providing more consistent and
10 ongoing support after they leave ..."

11 So clearly they are a vulnerable group. If they
12 find employment, they lose employment?

13 A. Yes.

14 Q. I think, as we know and as we have discussed earlier,
15 some become homeless?

16 A. Absolutely, yes.

17 Q. And are vulnerable in the sense prone to exploitation?

18 A. That's right and although the issues had been
19 recognised, I think this was an important piece of
20 research highlighting the vulnerability of young people
21 as they transitioned out of care.

22 Q. If we move on to the next section, we learn that in 2004
23 the Scottish Executive published regulations and
24 guidance on services for care leavers and the guidance
25 highlighted the role of Local Authorities as corporate

1 parents for these young people and it outlined the
2 legislative framework set out in the regulations that
3 you mentioned?

4 A. Yes.

5 Q. This is the Scottish Government playing a part in the
6 aftercare of children in particular?

7 A. That's right. They commissioned the research and in
8 a sense this was them acting on both the work of the
9 throughcare and aftercare forum, but also on the basis
10 of the research findings.

11 Q. In particular we see that as a central principle that
12 Local Authorities:

13 "Must seek and take account of the views and wishes
14 of the young person in assessing their needs and in
15 preparing the plan that comes out of the assessment."

16 A. Yes.

17 Q. Again, this issue of assessing needs is so key,
18 isn't it?

19 A. Absolutely. Again in terms of across departments and
20 agencies in terms of education, in terms of health, the
21 issue of mental health issues was flagged up, as well as
22 social work.

23 Q. Is the first sentence in the quote aspirational in your
24 view:

25 "The aim of the throughcare and aftercare service is

1 to enable the young person to make a successful
2 transition to independent adult living."

3 A. It is aspirational certainly, in the sense that the
4 researchers highlighted the frequency with which this
5 didn't happen.

6 Q. Again, if we read on:
7 "To do this they must be at the heart of the
8 assessment and planning process."
9 "They" is the young people?

10 A. Yes.

11 Q. "... and fully involved in all aspects of their own
12 throughcare and aftercare."

13 A. Again, this is reiterating the child-centred or the
14 young-person-centred nature of work that needs to be
15 going at all the different stages.

16 Q. Indeed we read on to see that Local Authorities had the
17 duty to carry out a needs assessment, with a view to
18 determining what advice, assistance and support the
19 authority should provide?

20 A. Yes.

21 Q. A duty was placed on the Local Authority?
22 A. Yes, that's right.

23 Q. This needs assessment is known as the pathway
24 assessment, it would be the basis for preparing the
25 pathway plan?

1 A. That's right, yes. Again, there's a clear focus on
2 planning, which involves young people.

3 Q. It's a plan, if we look at the next page, 450, that
4 should be reviewed at least every six months?

5 A. Yes, and again, so that's the idea that you aren't
6 leaving young people at the point that they leave care
7 on their own.

8 Q. Halfway down that page, in relation to accommodation --
9 and clearly accommodation is a very important aspect of
10 leaving care?

11 A. Absolutely, absolutely.

12 Q. The guidance highlighted the importance of suitable
13 accommodation for a young person in making a successful
14 transition to adult living. I think we read elsewhere,
15 for example, of young persons going into hostels for
16 example?

17 A. That's right.

18 Q. Which does not sound ideal?

19 A. No, not at all.

20 Q. Or even bed and breakfast accommodation?

21 A. Or down south, caravans and suchlike.

22 Q. Another point that's addressed here is towards the
23 bottom of the page:

24 "... Local Authorities should have good monitoring
25 arrangements in order to measure service development and

1 delivery, and have appropriate arrangements for
2 information sharing with other agencies."

3 So the child had to be monitored after leaving care?

4 A. Sorry, where was that?

5 Q. I'm at the bottom of page --

6 LADY SMITH: It was the previous page, 450.

7 MR MACAULAY: Very bottom, where there is reference to good
8 monitoring.

9 A. I think that refers to monitoring the development of
10 services, rather than the monitoring of individual young
11 people, to ensure that pathway co-ordinators and the
12 supports that young people need will be in place.

13 MR MACAULAY: My Lady, I'm moving on to something --

14 LADY SMITH: Would it make sense for us to break at this
15 point today?

16 MR MACAULAY: Just while Professor Kendrick is here, I can
17 just help him by telling him that because he covered
18 foster care previously I don't propose to look at foster
19 care.

20 Also, because essentially boarding schools have been
21 very much looked at in a case study, I'm not inclined to
22 look on the section in boarding schools, which I think
23 is the last section in your report.

24 That will make your job a little bit easier
25 tomorrow.

1 LADY SMITH: The back is broken I think, Andrew.

2 Is that right, Mr MacAulay?

3 MR MACAULAY: I think so, yes.

4 LADY SMITH: Thank you so much for everything you have given
5 us today. That's really good.

6 I'll rise now. I would like to sit again at
7 10 o'clock tomorrow morning, if that would work for you?

8 See you then, thank you.

9 (4.03 pm)

10 (The Inquiry adjourned until 10.00 on
11 Thursday, 25 May 2023)

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