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Section 21 Notice – 27th August 2019

Further to previous correspondence, I enclose information as noted below

Foster Care Case Study – Part A & B
Extension granted until 27th February 2020

If there is anything further you may require, please let me know.

Yours sincerely

[REDACTED]
Laurence Findlay
Director of Education & Children's Services

**SCOTTISH CHILD ABUSE INQUIRY
FOSTER CARE CASE STUDY
PART A & B RESPONSES**

ABERDEENSHIRE COUNCIL

Part A – Background

1. Characteristics

1.1 History of the Local Authority

Over the period from 1930 to date, please provide details of the predecessor authorities for the local authority area for which the authority is now responsible, and the time periods during which these authorities were the responsible authority for the area, or any part thereof.

From 1930 to 1975 the relevant local authorities were Aberdeen County Council, Banffshire County Council and Kincardineshire County Council. Following local government reorganisation in 1975 these County Councils plus Aberdeen City were amalgamated under Grampian Regional Council. Further reorganisation took place in 1996 and up to the present day the responsible authority for the area is Aberdeenshire Council.

All subsequent references to local authority mean the local authority and its statutory predecessors.

All references to foster care include boarding out with private families.

a. When and how did the local authority become involved in the provision of foster care for children in Scotland?

The Local Authority has been designated with various levels of legal responsibility for the care, welfare and protection of children under different legislative frameworks at specific periods across the timespan in scope. It undertook the provision of boarding out and fostering children as part of a wider range of duties and functions.

Between 1930 to 1948, approval was received from the Secretary of State for Council schemes covering Education, Lunacy and Mental Deficiency, Public Assistance and Public Health. Councils were responsible for providing Public Assistance (formerly under the Poor Law (Scotland) Act 1845) encompassing the care, welfare and protection of children under the legal framework of the Children Act 1908, the Children and Young Persons (Scotland) Acts, 1932 and 1937 leading up to the reform of the Children Act 1948.

Under the Children and Young Persons (Scotland) Act 1932 regulations mandated local authorities to identify and monitor appropriate persons to be guardians for boarded-out children. Between 1930 and 1948 boarding-out of children was the remit of both the Public Assistance and Education departments of the county councils. The Chief Public Assistance

Officer (CPAO) and local PAOs had the remit for boarded out children. There is evidence within the various County Council minutes of a Public Assistance Committee which oversaw the work of the CPAO.

In line with the Children Act 1948 the CPAO was renamed the Children's Officer and remit specific Children's Committees were set up in the County Councils. Scottish Home Dept Circular 6913 (6/8/1948) sets out these changes in regulations.

Regulations under the governing legislation were : (from 1st November 1933), the Children and Young Persons (Scotland) Care and Training Regulations 1933 and from 20th October 1947, the Children (Boarding-Out etc) (Scotland) Regulations 1947, and from 1st August 1959, the Boarding – Out of Children (Scotland) Regulations, 1959.

Following the Children and Young Persons Act 1963, the Social Work (Scotland) Act 1968 developed from the findings of the Kilbrandon report in 1964 led to the creation of Social Work Departments and the appointment of a Director of Social Work. Its consolidated enactments relating to the care and protection of children and established Children's Panels. Within the County Councils areas of Aberdeenshire which previously functioned independently the Aberdeen County Council minute of 21 March 1969 notes that Kincardine and Aberdeen County Councils had agreed to combine for the purpose of discharging their functions under the Act and this came into force on 17 November 1969.

The Local Government (Scotland) Act 1973 came into force on 16 May 1975 which resulted in the creation of Grampian Regional Council.

Norrie (2017) [Ref: Norrie, K. McK. (2017) Legislative Background to the Treatment of Children and Young People Living Apart from their Parents. Published by Scottish Child Abuse Inquiry, Edinburgh] (p.167) reports that the Boarding-out of Children (Scotland) Regulations, 1959 continued to apply until 1st April 1986, when they were revoked and replaced by the Boarding-out and Fostering of Children (Scotland) Regulations 1985. While the 1959 Regulations were based on the understanding that boarding out was a long-term solution, the 1985 Regulations perceived fostering as a temporary placement, reflecting the shift presaged by the 1968 Act from replacement families to short-term non-institutional care. The 1985 regulations also required local authorities to establish fostering panels to advise on suitability of prospective foster carers.

The other major innovation in the 1985 Regulations was that the care authority became obliged to enter into an agreement with approved foster parents regarding the care to be provided for any children who might be placed with them, including details of the financial arrangements; the care authority's policies and practice regarding the welfare of children for whom it had responsibility, the ways foster parents would be expected to follow these policies and practices and the assistance

to be provided by the care authority to that effect; and the arrangements made by the care authority to review at appropriate intervals its approval of foster parents for the purposes of the regulations.

Further reorganisation of local authority geographical areas through the Local Government (Scotland) Act 1994 saw the creation of Aberdeenshire Council.

The Boarding-out and Fostering of Children (Scotland) Regulations 1985 were revoked and replaced by the Fostering of Children (Scotland) Regulations 1996.

The Arrangements to Look After Children (Scotland) Regulations 1996, which required local authorities to make a care plan for each child looked after by them (whether in foster care, in a residential establishment, or otherwise), also came into force on 1 April 1997.

The Fostering of Children (Scotland) Regulations 1996 were revoked by the Looked After (Children (Scotland) Regulations 2009 which have governed public fostering arrangements from 28th September 2009 until the present day.

Subsequent legislation which imposed statutory duties on the local authority included The Children (Scotland) Act 1995, Adoption and Children (Scotland) Act 2007, the Children's Hearings (Scotland) Act 2011 and the Children and Young People (Scotland) Act 2014.

b. How has the involvement of the local authority in the provision of foster care changed/developed over time?

We refer to the answer to 1.1 b) above.

Research indicated that 'Rules for Guardians of Boarded Out Children were approved by the Aberdeen County Council Public Assistance Committee on 30 September 1932 and approved by full Council on 28 October 1932. (1932 01-04). The Public Assistance Officer (PAO) had an overseeing role and had to be consulted by guardians on various matters e.g. change of school, illness, contact with parent or serious acts of misconduct by a child. There is emphasis put on moral and religious training and a responsibility of the foster carer was to ensure attendance at Church or Sunday School and children were to be encouraged to have industrious habits. The PAO had the right to remove a child under certain circumstances.

Change in the ethos behind the provision of foster care came with the 1948 Act made it a statutory aim for boarding out to be the first option since a local authority shall discharge their duty to provide accommodation and maintenance for a child in their care – (a) by boarding him out, or (b) where it is not practicable or desirable for the time being to make arrangements for boarding-out, by maintaining the child in a [residential] home ... (Norrie 2017 p.57)

The Children and Young Persons Act 1963 imposed on local authorities a duty to take preventative action and work to keep children out of the care system. This made the local authority look at preventative measures as well as how children might be rehabilitated to their parents.

The 1968 and subsequent acts continued to make the Council responsible for the welfare of the children and young people in its care through setting up Social Work Departments and development of child-care services.

1.2 Funding of Foster Care

Past

a. How were the local authority's operations and activities, so far as relating to the provision of foster care, funded?

Funding for boarded out children was provided through exchequer grants to local authorities. There is reference in Council minutes in 1936 to Kincardineshire County Council receiving an exchequer grant of £31558 which was a reduction as the city boundary had increased. The grant was made under the Local Government (Scotland) Act 1929. Additionally, there is

reference to parents making contributions for their child's care and referral to the Public Assistance Committee if they are unable to do so.

There is reference in legislation e.g. the Children and Young Persons (Scotland) Act 1937 and the Children Act 1948 to grants paid to local authorities and to monies provided by parliament to local authorities to support the carrying out of their duties under these Acts.

Norrie 2017 (p. 38) describes how, following the introduction of the Children and Young Persons Act 1932, fostering became a major component of state care. He states further committal to a fit person was possible for any child or young person who needed care and protection or who had committed an offence. Every Education Authority was deemed a fit person with the Treasury bearing the cost and that the only mechanism available to them was to board them out with private families- in other words, fostering. In more recent times funding is via central government allocation to local authorities and local taxation. The Council then decides on the budget for departments including Social Work and Children's Services.

b. To what extent, if any, did the local authority provide funding to other organisations for the purposes of provision of foster care?

There is suggestion in the minute of the Public Assistance Committee 21/11/47 that children were boarded out in other local authorities. There is no indication of rates of payment but in consideration of the Children (Boarding Out &c) (Scotland) Rules and Regulations 1947 the committee noted in respect of children boarded out by the Council in the area of another local authority, the Chief Public Assistance Officer be authorised to arrange, after appropriate consultation with the other local authority, for the supervision of such children by some reliable person resident in the locality in which the children are boarded out.

There is no reference in this period to foster carers being directly paid but rather an allowance for each child being granted. Aberdeenshire County Council Public Assistance Committee on 21/11/1947 agreed a weekly payment of 15/- as a maintenance allowance for each boarded out child. Area sub-committees could continue the existing practice ... to grant allowances up to a maximum of 15/- per week. The Education Committee agreed the sum of 15/- per week on the understanding school meals came from this amount (ACC Education Committee 1/10/1947)

It is noted that in 1948 - 49 approximately 550 children were boarded out by the Public Assistance and Education authorities from other areas, but less than 20 Aberdeenshire children were boarded-out outwith the County.

Current practice and practice during the lifetime of Aberdeenshire Council saw independent fostering agencies being used to place children and young people when Aberdeenshire did not have sufficient placements. Payment would be according to the rates of the individual agency

c. If funding was provided by the local authority to other organisations for the provision of foster care, to whom was it provided, when was it provided and what criteria were applicable to its provision?

See above 1.2 b)

d. To what extent was financial state support available to foster carers? How were foster carers made aware of that state support? How was that state support accessed by foster carers (e.g. directly or via the local authority)?

In a leaflet issued by Aberdeen County Council entitled The Protection of Children following the Children Act 1948 paragraph 2. What Constitutes Payment notes - Payment is a wide term and includes not only a weekly cash sum but any payment or promise to pay either money or money's worth, including a lump sum. Further, the law says that, if a foster-parent receives a guardian's allowance or a family allowance, by reason of maintaining a child who has lost one or both of his parents, the foster-parent is held to be receiving payment and must send notice to the Council.

Foster carers are no eligible for child benefit due to the local authority paying a child's allowance to them for the children they look after. If foster carers are on benefits, they may receive housing benefit if they are in rented accommodation or, more recently, universal credit.

The current position is that benefits of foster carers are not affected by fostering until they are over Skills Level 2. (see 1.2 e) (2007 12 20 07) Each foster carer completes their own tax self-assessment and the Fostering Network provides carers with advice on this. The local authority pays an annual subscription for every fostering household to the Fostering Network to enable them to access legal and financial advice. Foster carers can apply for Personal Independence Payments (formerly Disability Living Allowance) for children in their care who qualify for this benefit.

e. To what extent was financial support from the local authority available to foster carers?

In terms of the Children and Young Persons (Scotland) Act 1937- s 88 (3) An Education Authority may board out children and young persons committed to their care for such periods and on such terms as to payment and otherwise as they think fit.

In the 1932 draft regulations boarding out children were supplied with two outfits of clothing and one annually. The PAO played an important role in monitoring these and had the power to remove a child if foster-carers were taking advantage of their position. Furthermore, in a letter from John Anderson, Public Assistance Department, dated 9 December 1932 to accompany the Rules for Guardians (1932 07) it is noted - We are all familiar with the Guardian, often unsatisfactory, who has taken a child to board by a private arrangement with its mother. A day arrives when she deserts or otherwise fails to pay, and application is made by the Guardian for assistance. On no account should public assistance be given in such cases unless Officers are absolutely satisfied with the home and the Guardian and I would like this rule strictly adhered to. Officers must keep in mind that the children are our first consideration and sentiment must not be allowed to over-ride the rule.

The payment to foster carers was seen as an allowance for maintenance of the child as opposed to payment of a wage for their services. There is note in Grampian Regional Council Social Work Committee (7/9/1978) of a pilot scheme for salaried foster parents for children with special needs.

Scale of allowances for foster parents are detailed in the minute of the Social Work Committee 25/2/1982. These are reviewed annually by the Committee.

A report to Aberdeenshire Housing and Social Work Committee (16/2/2006) (2006 02 16 50) notes - Aberdeenshire's basic Fostering Allowances currently fall some 30% below those recommended by the Fostering network. An Enhanced Allowance Scheme exists however, that take account of the individual needs of children in placement, accordingly, reflecting the

skills required to care for them. At present 100% enhancement is paid for most children in placement therefore placing the allowance that Foster carers receive above the recommended Fostering Network levels. In addition to the Enhanced Allowance scheme Aberdeenshire also operates a Family Placement Fee of £99.20 aimed at maintaining young people with more complex and challenging needs in the community. This fee is paid for a number of adolescent placements and is also paid for respite provision for young people in residential school and has been utilised on occasions to keep larger family groups together. At this time there were 4 Aberdeenshire Alternative Placement Scheme foster carers who were paid £17,000 plus basic fostering allowance. These placements were for hard to place young people as an alternative to residential and secure care.

A report to the Housing and Social Work Committee (20/12/2007) outlines the Aberdeenshire Fostering Service Plan which has carers placed at different skill levels according to training achievements. (2007 12 20 01-13)

Aberdeenshire fostering scheme was reviewed in 2007 and in April 2008 the new scheme was implemented. This provided a single structure and payments according to skills levels.

f. If financial support was available, what was the source of those funds (i.e. from local or central government)? What criteria did the local authority apply to the distribution of such funds?

We would refer to the response to 1.2 a). It would appear that the financial support came from local government via grants from the national exchequer (central government). Funding was in response to requests for support in education or based on financial hardship of the foster carers.

As noted in 1.3 e) allowances were paid to foster carers to maintain the children in their care. Additional funds are made available by the local authority out of the child-care budget for emergency items such as clothing on admission to care.

How were foster carers made aware of any financial support available from the local authority? How was that financial support accessed by foster carers?

Unknown other than via the Public Assistance Officers monitoring placements which came under Boarding-out regulations. Currently this would be via the foster carer's linkworker.

g. What other sources of funding were available to foster carers in relation to the provision of care for children?

In relation to Aberdeenshire Council Social Work Training Plan 1996 -1997 as seen by the Social Work & Housing Committee on 27/3/1996 it is noted that targets were to develop programmes of input from BAAF and NFCA with staff, including foster carers. The fees and expenses of foster carers attending would be paid by the local authority.

h. Was the funding adequate to properly care for the children?

Yes

i. If not, why not?

Not applicable

Present

j. With reference to the present position, are the answers to any of the above questions different?

No

k. If so, please give details.

Not applicable

1.3 Legal Status

(i) Local authority

Past

a. What was the legal basis which authorised or enabled the local authority to become responsible for the provision of foster care for children in Scotland?

Norrie (2017 p.38) notes that the 1932 Act (Children & Young Persons Act 1932) transformed committal to the care of a fit person from a form of kinship care, as it had been under the 1908 Act (with its reference to committal to a relative ... or some other fit person), into fostering as a major component of state care. As a statutory body the local authority was required to adhere to this and subsequent legislation regarding accommodation of children and young persons.

The development of legal provisions relating to foster care has been covered in Q 1.1.b.

Significantly the Boarding-out and Fostering of Children (Scotland) Regulations 1985 which came into operation on 1st April 1986 required local authorities to establish fostering panels. This further developed the local authority's role in the selection, recruitment and maintenance of foster carers. Regulation 4 specifies that a care authority must appoint a fostering panel. Regulation 6 in describing the panel's function, states that a fostering panel shall consider every person referred to it by the care authority as a prospective foster parent, and that they shall make a recommendation as to whether such a person is suitable to be a foster parent. The panel must also recommend whether they consider the foster parent to be a suitable carer for any child to whom the Boarding Out Regulations apply, certain categories of children to whom the Regulations apply, or a particular child or particular children.

b. Did that legal basis require the local authority to meet, or fulfil, any legal and/or regulatory requirements in respect of children in its care? If so, please give details.

See response to 1.1b) and 1.3 i).

The Rules for Guardians of Boarded Out Children (1932) require the local authority to monitor and provide for children who are fostered.

Public Assistance Circular 1934 was written by the Secretary for the County Clerk/Town Clerk following the Poor Law Scotland Regulations 1934. It states It will be noted that Article 25, which deals with the making of rules to be observed by guardians, requires that those rules shall ensure that a guardian does not make use of the services of any boarded-out child for the purpose of any trade, business or calling carried on by him, except in the performance of such light agricultural or horticultural work as may be done by the child without risk of injury to the child's health or of detriment to his educational progress and general welfare. Authorities are reminded, however, that the employment of children in general is regulated by Part IV of the Children and Young Persons (Scotland) Act, 1932, and

by any by-laws made by education authorities under that Act. Article 25 of the regulations imposes an additional restriction upon the work that may be performed by boarded-out children. Care should be taken by authorities that the rules for guardians do not permit employment which is prohibited by the statute or by-laws made under the statute or by the Department's regulations.

There is a duty to visit children who are fostered though initially there is no specified frequency. The minute of the County of Aberdeen Public Assistance Committee (25/1/1935) states there was submitted a circular from the Department of Health for Scotland along with a copy of the Poor Relief Regulations made by the department under sections 9, 10 and 12 of the Act [Poor Law (Scotland) Act 1934]. It was agreed that... the matter of frequency of visits to boarded out children ... be left to the discretion of the local committees.

The 1948 Act made it mandatory to set up a Children's Committee and appoint a Children's Officer. It also highlighted fostering as the preferred means of securing a child's future when they are removed from their parents. Foster carers were to be vetted as to their suitability. The year before, Aberdeen County Council Public Assistance Committee (21/11/1947) discussed a circular from the Scottish Home Department (9/10/1947) regarding the Children (Boarding out &c) (Scotland) Rules and regulations 1947. The Chief Public Assistance Officer would carry out duties including the selection of foster parents and the visitation of children boarded out. The council also had a duty to make arrangements for their medical care being undertaken by the parish medical officer appointed by the Council

Norrie (2017 p.57) notes the 1948 Act made it a statutory aim for boarding out to be the first option since a local authority shall discharge their duty to provide accommodation and maintenance for a child in their care – (a) by boarding him out, or (b) where it is not practicable or desirable for the time being to make arrangements for boarding-out, by maintaining the child in a [residential] home.

The Children and Young Persons Act 1963 imposed on local authorities a duty to take preventative action and work to keep children out of the care system.

The 1968 and subsequent acts continued to make the Council responsible for the welfare of the children and young people in its care through setting up Social Work Departments. The minute of Aberdeen County Council (21/03/1969) notes that Kincardine County Council had agreed in principle to combine with Aberdeen County Council for the purpose of discharging their functions under this Act. Banffshire County Council did not amalgamate with Moray and Nairn.

The Boarding-out and Fostering of Children (Scotland) Regulations 1985 outline that the authority had responsibility for appointing foster carers in accordance with Schedule 1 of the Act. The authority approved foster parents under regulation 7 of the Act. As noted previously these regulations required the local authority to set up a fostering panel. See 1.3 i) a)

c. Did the local authority have a legal duty of care to each child in its care?

Yes, see response to 1.3 i) a) and 1.3 i) b). The local authority had a duty as set out in its legal and statutory responsibilities to promote the welfare of children and young people in its care.

Present

d. With reference to the present position, are the answers to any of the above questions different?

Aberdeenshire Council continues to discharge its legal and statutory responsibilities under current legislation.

e. If so, please give details.

Not applicable

(ii) Foster carers

Past

a. Did foster carers have a special legal, statutory or other status?

To the best of our knowledge foster carers had no statutory or special legal status. They looked after the children in their care on behalf of the local authority and, unless revoked, parents continued to have parental rights.

b. If not, how did the local authority classify a foster carer?

In the Rules for Guardians of Boarded Out Children (1932) (1932 01-04) the criteria for being a foster parent is that Guardians must be well recommended persons and not be in receipt of Poor Relief

In terms of the Children (Boarding-out (Scotland) Rules and Regulations 1947 foster parent was defined to mean a husband and wife, or a woman, with whom a child is boarded out by a local authority.

Since the coming into force of the Looked After Children (Scotland) Regulations 2009 there has been no limitation on the type of family structure that potential foster carers must belong to and foster carers are assessed as suitable according to their own merits....the local authority is responsible for approval of foster carers... (Norrie 2017 p.179).

c. What was the legal basis which authorised, or enabled, a foster carer to become responsible for caring for children?

This was based on the legislation applicable at the time and on the regulations made thereunder.

Initially foster carers (or guardians) were vetted by the Public Assistance Officer who had the power to remove a child from their care if there was 'neglect, cruelty, or misconduct on the part of the guardian' or 'Where clothing is found to be neglected by the guardian, the children may be removed'. An application form asking for two referees notes (1932 08-10) 'Preference will be given to those who have reared children, and to guardians who are crofters or farmers.'

Aberdeen County Council distributed a note entitled 'The Protection of Children' (1948 01-02) to make carers aware of changes following the Children Act 1948. This was for children who were not boarded-out by the local authority and required carers to give notice of this to the Council.

The legal basis for the local authority regulating foster care within their area is dependent on when new Acts became statute. The local authority has since the thirties been responsible for the welfare of children in its area and the recruitment, support and monitoring (at varying levels over time) of foster care.

The 1985 Boarding Out and Fostering of Children (Scotland) Regulations required setting up of fostering panels to approve foster carers. These were strengthened by the Fostering of Children (Scotland) Regulations 1996 and the Looked After children (Scotland) Regulations 2009. This gave a legal basis on which local authorities must approve and monitor foster carers.

d. Did that legal basis require a foster carer to meet, or fulfil, any legal and/or regulatory requirements in respect of children in his or her care? If so, please give details.

Yes. See response to 1.3 (ii) c)

In the Social Work (Scotland) 1968 Act the regular review of care plans is made law. Within this there is encouragement, though not obligation, for carers to take on a new role and be part of the planning process. This was consolidated in the Children (Scotland) Act 1995.

The role of foster carers has evolved, and the demands and expectations have increased. The task is no longer simply to provide a caring and nurturing environment for a child. While this remains the primary contribution, foster parents are now often expected to observe and record a child's behaviour and note aspects of the child's development. They are regularly involved in childcare reviews and children's hearings. For many carers their role is a much more explicit and contractual one of partnership, not only with the local authority but also with parents. Increasingly, they have an important role in informing the planning for children. Norrie 2017 p 91 – Scotland's Children para 3.21

e. Did the foster carer have a legal duty of care to each child in his or her care?

Yes. Children (Boarding-out etc) (Scotland) Rules and Regulations 1947 - foster- parents shall accordingly bring up a child placed by the local authority in their custody as one of their own children and devote to this duty the care which good parents give to their children. (Norrie 2017 p.153)

Present

f. With reference to the present position, are the answers to any of the above questions different?

No

g. If so, please give details.

Not applicable

1.4 Legal Responsibility

(i) Local authority

Past

a. Did the local authority have any legal responsibility for the children in its care?

Yes. See response at 1.1 b). The local authority has a duty to safeguard and promote the welfare of children and young people in its care.

b. If so, what was the nature and extent of that legal responsibility?

Legal responsibilities are those laid out in the relevant statutes and regulations that pertained at the time. See response at 1.1 b).

In the Poor Law Regulations (Scotland), 1934 – Statutory Rules and Orders 1934 No 1296/S.69 it is stated that Section 21 of the regulations that where a child is boarded-out in the area of another local authority, the child is to be supervised by a reliable person and a report provided every 6 months on the circumstances of the child.

Poor Law Scotland Regulations 1934 states under Part III of the regulations that:

11. A local authority shall not board-out a child without a certificate of a medical officer of the local authority as to the child's bodily health and mental condition and as to his suitability for boarding-out.

12. A child shall not be boarded out in a house –

Which is so situated, or in such sanitary condition as to be injurious or dangerous to his health;

Which is not within reasonable distance from a school; or

Which does not permit of suitable sleeping accommodation for the child in a room properly lit and properly ventilated.

13. So far as reasonably practicable, a local authority shall board-out children of the same family in the same house.

14. Except with the sanction of the Department –

Not more than three children shall be boarded-out in the same house at the same time, unless all the children are children of the same family; and

A child shall not be boarded-out in a house in which there are more than three other children resident unless one or more of these children is a brother or sister of the child to be boarded-out.

15. If the number of children in a house in which a child is boarded-out by a local authority subsequently exceeds four, including that child, the child shall, unless the child is a brother or sister of one or more of the boarded-out children resident in the house or unless the Department otherwise direct, forthwith be withdrawn.

16. A child shall not be boarded out or be allowed to remain boarded-out –

In a house in which a certified lunatic or mental defective is residing;

With a guardian occupying or residing in a house or premises licensed for the sale of excisable liquor;

In a house where any member of the household has at any time been convicted of an offence which, in the opinion of the local authority, renders him unfit to be associated with a child; or

With a guardian other than a relative, of a religious persuasion different from that to which the child belongs.

17. A local authority shall, before boarding-out any child with a guardian, satisfy themselves that the guardian is of good character and of industrious habits, and is a person who is in all respects fit to look after the health, education and general well-being of the child.

18. A local authority shall ensure that when a child is first boarded-out he is provided with sufficient boots and stockings and at least two outfits of outer and of under-clothing, and that thereafter the child is kept supplied with boots and stockings and suitable clothing, and for that purpose they may arrange with the guardian for an adequate supply of the same.

19. A local authority shall arrange for the provision of the necessary medical attendance on every child boarded-out by them and for his receiving necessary dental treatment, medicines and medical or surgical appliances and extras ordered by the medical attendant, and shall notify the guardian of the arrangements made.

20. Where a local authority board-out a child in the area of another local authority, they shall immediately furnish that authority with particulars of the child and with the name and address of the guardian with whom he has been boarded-out.

21. Where a local authority board-out a child in the area of another local authority, they shall make suitable arrangements for the child's supervision. Such arrangements shall include provision for the child to be supervised by some reliable person resident in the district where the child is boarded-out, and for the person by whom the child is supervised to furnish to the local authority a report every six months on the matters specified in paragraphs (a) to (h) inclusive of Article 23 of these regulations.

22. A local authority shall in January of each year furnish the local authority of each area in which a child is boarded-out by them with a list giving the name, age and religion of each child boarded-out by them in that area and the name and address of his guardian.

23. Unless the Department on the application of a local authority in any particular case otherwise direct, every child boarded out by a local authority shall be visited at least once in every twelve months by an inspector of the local authority who may be accompanied by not more than two members of the local authority, and the inspector and the members, if any, shall furnish to the local authority a report with respect to –

The general conditions of the home where the child is boarded-out, including the suitability of the guardian;

The sleeping arrangements for the child and the condition of his bed, bedclothes and night apparel;

The condition of the child's clothing;

The child's health, general welfare and behaviour;

The progress the child has made at school;

The manner in which the child is occupied outwith school hours;

Any complaints made by, or concerning, the child; and

Any other matters relative to the care and supervision of the child by the guardian or to the child's welfare which they consider should be reported;

and the local authority after taking any necessary action on such report shall retain it for reference.

24. Where the local authority have reason to believe that a guardian is party to any contract for the purpose of ensuring the payment to him a sum of money upon the illness or death of the child boarded-out with him, they shall forthwith withdraw the child from the guardian.

25. A local authority shall make rules to be observed by guardians and shall furnish the Department with a copy of such rules. The rules shall contain provisions for ensuring the general welfare of every boarded-out child, including provisions with regard to general training and discipline, attendance at school, feeding, clothing, sleeping accommodation and medical attendance and for ensuring that no guardian shall make use of the services of any boarded-out child for the purposes of any trade, business or calling carried on by him except in the performance of such light agricultural or horticultural work as may be done by the child without risk of injury to the child's health or of detriment to his educational progress and general welfare.

26. Where it appears to the Department that an excessive number of children is boarded-out in an area, the Department may, after consultation with the Scottish Education Department, give intimation of such excessive boarding-out to any local authority who have boarded-out children in that area and the local authority shall, within the time prescribed by the Department, reduce the number of children so boarded-out by them to such number as the Department may require.

27. No child shall be boarded-out in any area which the Department, after consultation with the Scottish Education Department, have declared to be unsuitable for that purpose.

Public Assistance Circular 1934 was written by the Secretary for the County Clerk/Town Clerk following the Poor Law Scotland Regulations 1934. Generally speaking, the regulations do not introduce any radical changes in the arrangements hitherto in force in the spheres of poor law administration covered by the regulations...Part III (boarding-out of children) incorporates in regulation form many of the recommendations made by the Department and their predecessors in various administrative circulars, particularly in the Department's Public Assistance Circular No. 18, dated 29th June 1931.

The 1947 regulations contain no direct prohibition on boarded-out children being put to work by their foster parents in farming situations.

The 1959 regulations concentrate more on the duty of the local authority to ensure suitability of foster carers and supervision of the children

7. (1) Before boarding-out a child the care authority or voluntary organisation shall ensure that the prospective foster home is visited by the care authority's children's officer, or a visitor, as the case may be, who is personally acquainted with, or, if that is not practicable, fully informed about, the child, and shall satisfy themselves that the foster home and the household living there are likely to be suitable for the child.

13. The care authority or voluntary organisation shall ensure that a child boarded out by them shall within the first two months after being boarded-out and thereafter at intervals of not more than three months from the date of the last visit be visited by the children's officer or by a visitor, as the case may be, who shall on each occasion see the child, his foster home and foster parent and furnish to the care authority, or, as the case may be, the voluntary organisation, a written report on the Visit.

As noted in 1.3 ii) d) the Social Work (Scotland) Act 1968 set up a system of regular reviews for children in care along with the Children's Hearing system which made and reviewed Supervision Orders.

The 1985 Boarding Out and Fostering of Children (Scotland) Regulations as noted in previous responses decreed that local authorities set up Fostering Panels to approve foster carers. The following criteria had to be met:

(a) the care authority has, so far as reasonably practicable, obtained the information set out in Schedule 1 (of the regulations)

(b) the prospective foster parent has been interviewed by or on behalf of the care authority;

(c) the care authority has conveyed to the fostering panel a report including the information gathered under sub-paragraph (a) together with such other information and such comment as it thinks appropriate;

(d) the care authority has considered a report from the fostering panel containing recommendations on the suitability of the prospective foster parent; and

(e) the care authority is satisfied, having regard to the duty imposed on it by section 20 of the [1968] Act, that the prospective foster parent is a suitable person with whom to place children.

Norrie (2017 pp.169 / 170) notes - The other major innovation in the 1985 Regulations was that the care authority became obliged to enter into an agreement with approved foster parents regarding the care to be provided for any children who might be placed with them, including details of the financial arrangements; the care authority's policies and practice regarding the welfare of children for whom it had responsibility, the ways foster parents would be expected to follow these policies and practices and the assistance to be provided by the care authority to that effect; and the arrangements made by the care authority to review at appropriate intervals its approval of foster parents for the purposes of the regulations.

c. Did any other person or organisation have any legal responsibility for the children while they were in the local authority's care?

People holding parental responsibilities and rights continued to have some legal responsibility for their children while they were in the care of the organisation.

d. If so, what was the nature and extent of that responsibility?

Parental rights and responsibilities are now as defined in the Children (Scotland) Act 1995. Prior to that, the Social Work (Scotland) Act 1968 refers to 'rights and powers' without further definition.

e. If the local authority had no legal responsibility for children in its care, where or with whom did legal responsibility lie?

Not applicable

Present

f. With reference to the present position, are the answers to any of the above questions different?

No

g. If so, please give details.

Not applicable

(ii) Foster carers

Past

a. Did the foster carer have any separate legal responsibility (separate from the local authority) for children in his or her care?

Norrie (2017 p.341) –In terms of the Children and Young Persons (Scotland) Act 1932, the person to whose power the boy or girl is committed shall, whilst the order is in force, have the same rights and powers, and be subject to the same liabilities in respect of his or her maintenance, as if he were his or her parent. The Children and Young Persons (Scotland) Act 1937 replicated this provision. The provision was repealed in the Social Work (Scotland) Act 1968 and no equivalent provision was enacted.

Thereafter, foster carers would have undertaken the provision of care for the child on behalf of the organisation. In terms of the Fostering of Children (Scotland) Regulations 1996, to foster was stated to mean to arrange for a child to live as a member of the family of a person who is not a parent, does not have parental responsibilities in respect of the child and who is not a relevant person in relation to the child and who undertakes to look after the child other than in accordance with the Adoption Agencies (Scotland) Regulations 1996. Norrie 2017

b. If so, what was the nature of that responsibility?

See response to 1.4 ii) a). Norrie (2017 pp.140/141) From 1968 decision making powers relating to children in care rested with the local authority and foster carer's powers have been traced to and constrained by the applicable regulations.

Present

c. With reference to the present position, are the answers to either of the above questions different?

No

d. If so, please give details.

Not applicable

1.5 Ethos

Past

a. What did the local authority see as its function, ethos and/or objective in terms of the foster care service it provided for children?

See response at 1.1 a) and 1.1 b).

In the 1932 Rules for Boarded Out Children (1932 01–04) Aberdeen County Council state that:

1. Guardians must be well recommended persons who can be depended on to look after the health, comfort, education, and general well-being of children whose future life will depend in

large measure on the example shown them and the treatment they receive at the hands of those under whose influence they are placed.

3. A kindly feeling should be cultivated between guardians and the children in their care. Children ought to be treated as far as possible as members of the family, partaking of their meals at a common table, and sharing a common family life. ...

7. Every child of school age, if health permits, must be sent with the utmost regularity to the nearest school, and the guardians are requested to see that home lessons are prepared and that proper care is taken of school books which are supplied free by the Council. No child should be taken from school for employment in herding, berry-gathering, or other such employment during school hours ...

8. The moral and religious training of the children must be regularly attended to, and regular attendance at church and Sunday School is expected where these are within reasonable distance of the home.

9. No boarded-out child shall, on any pretext whatever, be sent for intoxicating drink, or, unless prescribed by the Medical Officer, be allowed to partake thereof, and no boarded-out child shall be allowed to use tobacco.

10. Children should be taught by precept and example to cultivate industrious habits. ... Boys should be taught to make themselves useful, and girls to sew, knit, darn, and to perform, as they grow older, general household duties. There must be no attempt, however, to take advantage of the children in this respect, or to deprive them of the necessary play or recreation.

11. Indiscriminate or harsh punishment of children will not be permitted on any pretext whatever. Any serious act of misconduct on the part of a child, or any child whose general behaviour is unsatisfactory, should be reported to the Public Assistance Officer.

13. As children, in some instances, have been removed from the influence of degraded and immoral parents, guardians should keep in view that it is the general rule that no parent, Relative, or friend should be allowed to visit a child without the sanction of the Public Assistance Officer ...

16. ... Guardians are expected to take all possible steps to obtain suitable employment for children about to leave school. Before sending children to work guardians should consult with the Public Assistance Officer regarding the special aptitude of children for particular employment and should advise him of their progress until sixteen years of age. ...

As can be seen from above there was no suggestion that children be rehabilitated back to parents and this continued following the 1948 Act. In the minute of the Children's Committee (1 April 1966) following the Children and Young Person's Act 1963, the committee notes under s.1 of the Act an extension of the power to promote the welfare of children. 'It shall be the duty of every local authority to make available such advice, guidance and assistance as may promote the welfare of children by diminishing the need to receive children into or keep them in care under the Children Act 1948.' Which indicates a change in ethos regarding boarded-out children.

Under Grampian Regional Council Child Care Strategy (July 1994) Where it is appropriate for a child to come into care, unless after thorough assessment the child's needs dictate otherwise, the placement of choice will be with a substitute family and the plan will be for rehabilitation. If rehabilitation is not possible the best resource will be sought consistent with

the child's needs, interests and most important relationships. (GRC Child Care Strategy p2.)
(1996 02 21)

The purpose and role of foster care (same source) is defined as:

A. The purpose and role of foster care is to provide a family experience to children and young people who, for various reasons, are not able to remain within their own families.

B. Fostering will provide alternative care for a range of children's needs, some of which will be temporary and others for the duration of their childhood.

C. The Social Work Committee believes that foster care is a key aspect of the childcare system, integrated with services which help families look after their own children, have them rehabilitated, or find permanent substitute families for those who require them.

This strategy was adopted by Aberdeenshire Council on its inception in 1996 and continues to be a driving ethos in the provision of foster care. (Aberdeenshire Council SW&H 21 Feb 1996)

b. What did the local authority see as the foster carer's function, ethos and/or objective in terms of the service that the foster carer provided to children placed with him or her?

See response 1.5 a. Additionally, it is noted in the GRC and Aberdeenshire Child Care Strategy that:

The Social Work Committee recognises the need and the right of foster carers to receive quality preparation and support in their task.

The Social Work Committee recognises the need and the right of foster carers to receive training which develops further their knowledge, ability and skills in caring for children.

Foster parents will be encouraged to participate in the decision-making process relating to children in their care and opportunities will be afforded them to make appeals should they dissent from review decisions. (GRC Child Care Strategy p 6) (1996 02 21)

c. Were there changes over time in terms of what the local authority saw as its function, ethos and/or objective in terms of the foster care service it provided for children?

As noted in previous responses initially foster care (or boarding out) was seen as a long-term solution and contact with parents was not encouraged. Rehabilitation was not seen as a task for the Public Assistance Officers though it would appear that parents could ask for the return of their children if they retained parental rights.

Since the Children and Young Persons Act 1963 the emphasis moved to prevention of reception into care along with assessment of whether a child could be rehabilitated to their birth family. This ethos has been enshrined in all subsequent legislation.

d. If so, what were the changes and when and why did they come into effect?

The change in ethos noted in 1.5 c. was governed by legislation and regulations issued by the national government and Scottish Office.

Aberdeenshire responded to the National Standards for Foster Care (1999) and the service was inspected in 2005 against a number of these standards.

e. Were there changes over time in terms of what the local authority saw as the foster carer's function, ethos and/or objective in terms of the service that the foster carer provided to children placed with him or her?

See responses to previous questions in this section.

It was not until regulations were made under the 1932 Act that identification and monitoring of appropriate persons was mandated. A consistent rule both before and after the 1932 Act concerned the powers of those who took children in on behalf of the state. When children were boarded out under Part Two of the Children Act, 1908, the fit person had the like control over the child or young person as if he were his parent and shall be responsible for his maintenance. The same rule appeared in the 1932 Act: The person to whose care the boy or girl is committed shall, whilst the order is in force, have the same rights and powers, and be subject to the same liabilities in respect of his or her maintenance, as if he were his or her parent. The Children and Young Persons (Scotland) Act, 1937 Act replicated this, other than that it talked of a child or young person rather than boy or girl. This last mentioned provision was repealed by the Social Work (Scotland) Act 1968 and no equivalent rule was enacted in that statute: from that point much of the decision-making powers relating to children in care rested with the local authority and the foster carer's powers have been traced to and constrained by the applicable regulations. (Norrie 2017 pp 140-141)

One of the main shifts has been from the foster carer initially providing a substitute home where parental involvement with the child was actively discouraged to a position where the fundamental principles of foster care in GRC are seen as:

The Social Work Committee recognises that foster care is a partnership between 4 main parties: The Child; The Child's Family; The Foster Carers; and the Social Work Department (GRC Child Care Strategy p.3) (1996 02 21)

f. If so, what were the changes and when and why did they come into effect?

See 1.5 e. Changes were promoted by the Social Work (Scotland) Act 1968 and subsequent legislation. Grampian Regional Council staff had a commitment to the principles embodied in the United Nations Convention on the Rights of the Child (1989).

Present

g. With reference to the present position, are the answers to any of the above questions different?

No. Aberdeenshire staff continue to have a commitment to the principles embodied in the United Nations Convention on the Rights of the Child (1989).

h. If so, please give details.

Not applicable

1.6 Numbers

(i) Local authority

Past

a. How many children did the local authority accommodate at a time in foster care and in how many placements?

There is no consistent data available for the period 1930 to 2007 through various documents note 'snapshot' figures. For information these are:

| | | | | |
|------------|--------------------------|-----|-----------------------|-----|
| March 1996 | Total no. in care | 213 | In foster care | 129 |
| June 1997 | | 164 | | 130 |
| March 1998 | | 173 | | 123 |
| April 2005 | | n/k | | 119 |

b. How many foster carers were approved/registered by the local authority at any given time? How many placements for children did this represent? How many placements were in use at any given time?

Figures as at 1 April 2005 gave number of registered carers as 99. The estimate was a further 55 foster carers were needed in order to meet the demand for placements.

c. If foster carers were approved/registered by the local authority as providing only specific types of care – e.g. respite care, short-term foster care, long-term foster care – please provide details of the categories and the numbers of placements in each.

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
|---------------------|------|------|------|------|------|------|------|------|------|------|
| Home from Home | 7 | 6 | 3 | 2 | 2 | - | - | - | - | - |
| Respite | 56 | 58 | 47 | 55 | 58 | 59 | 59 | 56 | 70 | 68 |
| Permanent Fostering | 19 | 15 | 13 | 9 | 10 | 8 | 11 | 8 | 13 | 13 |
| Temporary Fostering | 64 | 65 | 64 | 77 | 83 | 88 | 86 | 81 | 89 | 86 |
| Adoptive Fostering | 13 | 17 | 12 | 7 | 1 | 1 | 2 | 2 | - | - |
| Continued Fostering | - | - | - | - | - | - | - | - | - | 5 |

The figures in the table show the number of active carers in each category for each year i.e. carers who had a placement

d. Please provide details of any material changes in numbers of children, placements or foster carers, and the reasons for those changes?

No material changes.

e. How many children in total were accommodated by the local authority (whether in foster care or otherwise)?

We can provide records since 2008 when our records moved to Carefirst:

| Year | Number in Foster Care |
|-------------|------------------------------|
| 2016 | 231 |
| 2015 | 216 |
| 2014 | 201 |
| 2013 | 216 |
| 2012 | 244 |
| 2011 | No data |
| 2010 | 220 |
| 2009 | 219 |
| 2008 | 187 |

f. In general terms, was the main service provided by the local authority the provision of residential care for children in establishments, or was it the provision of foster care?

In recent times this has been the provision of foster care. Since the Children Act 1948 the first choice placement for children has been with a foster family.

Present

g. With reference to the present position, are the answers to any of the above questions different?

No

h. If so, please give details.

Not applicable

1.7 Children's Background/Experience

Past

a. Did the children placed in foster care generally have a shared background and/or shared experiences?

Prior to 1995, unknown. Since the inception of Aberdeenshire Council children admitted to foster care have become looked after as a result of their individual circumstances.

Since 1996, children have primarily become looked after under the Children (Scotland) Act 1995 legislation and criteria – the majority of those would be subject to Supervision Orders from the Children's Hearing. Our young people become looked after for a variety of reasons – e.g. their behaviour may be out of control of their parents/carers, they may be struggling to maintain education, they may be placing themselves at risk by virtue of their behaviour.

b. Were children admitted into the care of the local authority, or were they admitted into the care of particular foster carers?

Research in early records indicates that in the 1930s parents could place children with people known to them but carers were required to inform the Public Assistance Officer under the Children and Young Persons Act 1937.

The Children and Young Persons (Scotland) Care and Training Regulations, 1933, came into force on 1st November 1933 Part C of these Regulations contained the rules as to the Boarding Out etc of Boys and Girls Committed to the Care of Education Authorities.

Where an Education Authority were willing to undertake the care of children, they shall make arrangements to ensure that such boys and girls are boarded out in accordance with the provisions of the Act and of these rules. Such arrangements shall be subject to the approval of the Department and shall include keeping a list of persons, referred to in these rules as foster parents, who are willing and fitted to undertake the care of boys and girls. No mechanism was provided to assess fitness (nor criteria against which it was to be judged) other than the rules below excluding certain categories of individual from acting as foster parent. (Norrie 2017 p.141)

Under the Children Act 1948 if a foster parent 'receives a guardian's allowance or a family allowance, by reason of maintaining a child who has lost one or both of his parents, the foster parent is held to be receiving payment and must send notice to the Council.' Additionally, 'Where you have a foster child and agree to take another you need give only 48 hours' notice before receiving a second or subsequent child. You may also take a child in an emergency without waiting for the 7 days after giving notice, provided that you give as long notice as possible and in any case not later than 12 hours after receiving the child.' (Council of the County of Aberdeen The Protection of Children 1948) (1948 01-02)

From the 1968 Act children were admitted to the care of the local authority either voluntarily or via the Children's Panel. These children and young people were placed by the local authority.

c. Who placed children with the local authority?

Prior to the 1968 Act, parents or if children were deemed to be at risk the local authority or associated agencies (Aberdeen Society for the Prevention of Cruelty to Children) removed the children from their parents' care and placed them. Subsequent to the 1968 Act the Children's Hearing could legally order a child to be accommodated.

d. From 15 April 1971 (the date on which the Children's Hearing system was introduced), did the local authority receive children mainly through the Children's Hearing system?

Yes. A majority would be placed by the Children's Hearing or, if admitted under an emergency order, would be referred to the Children's Hearing.

e. If not, generally how did children come to be admitted into the care of the local authority?

Children and young people could be admitted on a voluntary basis with parental consent under the Social Work (Scotland) Act 1968 and subsequent legislation continuing this provision.

f. How long did children typically remain in the care of the local authority?

Prior to the 1968 Act, unknown. Post the 1968 Act, would require research into each child experience. We would expect young people to remain in their placement for as long as they required it and it was meeting their needs. This would vary from young person to young person.

g. In respect of children who were admitted into the care of the local authority, who made the decision as to whether they should be placed in foster care?

Historically the Public Assistance Committee via the CPAO and subsequently the Children's Committee via the Children's Officer. Following the 1968 Act and the advent of the Children's Hearing system the decision was made by the Social Work Department and the Children's Hearing

h. If the decision was made by the local authority, what criteria were applied?

The criteria would be what was in the best interests of the child.

i. Were children moved between different foster care placements?

Post 1968 Act, yes if that was felt to be in their best interests. It would not be normal practice however, and where possible we would want to minimise the number of moves experienced by foster care children.

j. If so, in what circumstances?

On an individual basis and review of the care plan a move could be made if it was seen to be in the child's best interests.

k. Generally did children typically stay in one, or more than one, foster care placement?

Every effort would be made to sustain a placement, but some children experienced multiple moves.

l. What was the process for review of children's continued residence in foster care, in terms of whether they continued to require to be (a) in foster care and/or (b) in that particular placement?

Prior to the Social Work (Scotland) 1968 there is no record of reviews taking place. Post the 1968 Act the legislation required cases of children and young people to be reviewed on a six-monthly basis after an initial review. There was facility to review more frequently if required. This legislation was consolidated under the Children (Scotland) Act 1995. If the child or young person was subject to a Compulsory Supervision Order (previously Compulsory Supervision Requirement) their case would be reviewed at least annually by the Children's Hearing.

m. When children left foster care, what was the process for discharge?

Prior to the Social Work (Scotland) 1968 Act, unknown. Post the 1968 Act, varying degrees of support was provided depending on the applicable statutory provision. We would anticipate the Looked After Child Review would agree and plan for a young person's discharge including support to be received after the young person has left foster care. The young people always have an allocated Social Worker, and ongoing support to the young person would be followed up by them. Some of our young people would be returning to their families, whilst others would be moving on to more independent living. In latter situations, the young person would have been referred to our Through and Aftercare Service, or to adult services depending on need, and would have a plan which included their next accommodation type. Young people moving to Through and Aftercare would have a named worker allocated to them to support them in their accommodation, employment/college/further education and also to provide practical and emotional support.

n. What support was offered to children when they left foster care?

Prior to formation of Grampian Regional Council unknown. Grampian Regional Council policy for young people leaving care (GRC Child Care Strategy p. 17) (1996 02 21) notes:

A. The Social Work Committee will offer services in a way that recognises the right and need of young people of 16 and over to seek advice, assistance and support in their own right. This will include supporting them through making their own decisions and enabling them to learn from the outcomes.

B. The Social Work Committee recognises the need for all young people to be helped to develop and, at an appropriate time, become independent of those who provide parental care.

Planning is also in evidence in the policy:

A. For all young people in care a written care plan will be established at the earliest stage based on a comprehensive assessment of their needs. This will normally be within 6 weeks of admission and the plan will be reviewed at regular intervals within the established child in care review system.

B. For children who are in care on or after their fourteenth birthday, the care plan will include arrangements and preparation towards future independent living or for their return home. The plan will recognise the Social Work department's powers and duties to provide support until the young person's eighteenth/twenty first birthday, or beyond in some circumstances, as prescribed by legislation.

Financial allowances will be available to young people who have been and are being cared for by the Social Work Department, regardless of the enactment by which they came into or left care. The relevant criteria shall be the appropriate legal parameters and their needs as assessed by the Social Work Department.

Leaving care grants of an agreed figure, which will incorporate an annual allowance for inflation, may be made in part or in whole.

Enabling legislation is cited at Social Work (Scotland) Act 1968 sections 20, 24, and 26.

The Children (Scotland) Act 1995 set out that local authorities have a legal duty to:

- Prepare young people for leaving care or ceasing to be looked after
- Provide advice and assistance to young people who have ceased to be looked after on or after their 16th birthday. Local authorities are legally required to provide aftercare support until the care leaver turns 19, and to assess any eligible needs for aftercare support until they turn 26 or beyond in some cases.

These duties are set out in the Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003.

Subsequent legislation to amend this The Support and Assistance of Young People Leaving Care (Scotland) Amendment Regulations 2015 and the Aftercare (Eligible Needs) (Scotland) Order 2015.

The Children and Young People (Scotland) Act 2014 s.67 strengthened the approach to throughcare and aftercare. This introduced Continuing Care whereby a young person born after 1 April 1999 who is looked after in foster care is eligible to remain in their current care placement until they turn 21. If the placement cannot be maintained, or if it is in the young person's best interests to start an alternative placement, a welfare assessment must be provided showing why staying in their current placement would significantly adversely affect their wellbeing.

Any eligible young person ceasing to be looked after on or after they turn 16 can request Continuing Care. A young person receiving Continuing Care will no longer be defined as 'looked after' but will continue to receive the same support. When Continuing Care ends the young person is then eligible for Aftercare support until they turn 26.

Aberdeenshire policies on Throughcare and Aftercare reflect this legislation.

o. What information was sought by the local authority about what children leaving foster care planned to go on to do?

This information would have been gathered via Child Care Reviews. Care leavers would be allocated a Leaving Care worker who would engage with the young person at looking to future options.

p. Was such information retained and updated?

Prior to the 1968 Act no records are available. Minutes of Child Care Reviews would reflect this information as would case recording. All would be subject to Date Retention protocols.

q. What was provided in terms of after-care for children/young people once they left foster care?

See 1.7 n. Aberdeenshire has a Throughcare and Aftercare team which works with young people leaving care in line with the current legislation.

Present

r. With reference to the present position, are the answers to any of the above questions different?

See 1.7 n. Most current relevant legislation is the Children and Young People (Scotland) Act 2014.

s. If so, please give details.

Not applicable

1.8 Local authority staff and foster carers

(i) Local authority

Past

a. How many people were employed by the local authority who had some responsibility for foster care services for children?

It has only been possible to identify individuals as far back as April 2004 as prior to this, employees were not systematically linked to work locations on the Council's payroll system.

Paper files for non-teaching employees who have left the Council are held for the period 1999 to date, some of which are stored offsite. However, we are unable to readily identify the individuals who worked in the foster care service area due to the way the files are organised.

Information on senior management has been excluded from the table as this has remained static throughout the reference period with the following reporting structure:



b. How many people were employed by the local authority at any one time who had some responsibility for foster care services for children?

Details of the number of people employed by the organisation at any one time who had some responsibility for children's services is provided in [Appendix 1 - Table 1](#). The table includes the number of employees who left employment during the 12-month period prior to date of the data extraction.

c. What roles and responsibilities did such staff have? Please specify in which roles staff met with children and foster carers.

Details of the experience and qualifications required for each of the identified job roles within the organisation which carried a responsibility for foster care services for children are provided at [Appendix 1 - Table 2](#).

The information provided is broken down to show both the past and current requirements of the relevant posts, where available. Historical information on all changes to post qualification and experience requirements is not always available, however, the year the information provided was in use is indicated.

d. In relation to each role, what experience/qualifications did such staff have?

Please refer to the response above in 1.8 (i) c.

e. When were fostering panels set up? What was their purpose and remit?

Norrie (2017) p 168 - One of the major innovations of the 1985 Regulations (Boarding - Out and Fostering of Children Regulations 1985) was the requirement on care authorities to establish Fostering panels, whose functions were to consider every person referred to it by the care authority as a prospective foster parent and to make recommendations to the care authority as to the suitability of such a person to act as a foster parent either for any child, any category of child or any particular child.

Regulation 4 specifies that a care authority must appoint a fostering panel. Regulation 6 in describing the panel's function, states that a fostering panel shall consider every person referred to it by the care authority as a prospective foster parent, and that they shall make a recommendation as to whether such a person is suitable to be a foster parent. The panel must also recommend whether they consider the foster parent to be a suitable carer for any

child to whom the Boarding Out Regulations apply, certain categories of children to whom the Regulations apply, or a particular child or particular children.

Nothing in the Regulations nor the accompanying SWSG Circular makes specific reference to the panel's composition, although Regulation 5 does place a duty on the care authority to satisfy itself that the numbers, qualifications or experience of individual members enables it to effectively discharge its functions.

Function 7 allows the Panel to consider the placement of particular children with approved foster parents in appropriate cases.

Within Grampian Regional Council there were two panels established: Aberdeen, Gordon, Kincardine/Deeside Division and Healthcare; and Banff/Buchan and Moray Divisions. Aberdeenshire Council has a single fostering panel for the local authority.

f. How were fostering panels constituted? What skills and experience were the members required to have?

See 1.8 i) e) re 1985 Regulations which do not specify make up of Panel.

The Annual Report of Aberdeenshire Adoption & Fostering Panel 1998/99 notes Aberdeenshire's Adoption & Fostering panel consists of representatives from the Social Work and Education services, a lay member (usually an adoptive parent or foster carer) and a medical adviser. Legal advice is provided by a solicitor from Law and Administration. (1999 06 17 04-06)

Members would have experience of either being a foster carer or working in a professional capacity with foster carers. The panel is chaired by an independent chairperson following a Best Value Review of the Aberdeenshire Adoption and Fostering Panel in 2006. (2006 02 16 15).

Aberdeenshire information on the fostering panel notes in terms of membership:

- 2.1 The Panel shall consist of no less than six members and should represent the community that it serves.
- 2.2 Membership must include:
 - At least one man and one woman
 - Medical Advisor*
 - Legal Advisor*

And may also include:

- Educational Representative
- Family Placement Social Worker or Manager
- Child Care Social Worker or Manager
- Independent representative from a relevant childcare agency
- Children's Panel member
- Social Workers (other than Child Care)
- Members of Aberdeenshire's Permanence Panel
- Panel members with specialist knowledge in particular areas such as Criminal Justice, Substance Misuse or workers with ethnic minority groups.

*The Medical Advisor and Legal Advisor may not always attend. They will provide guidance on specific issues and will attend if the Chair of the Panel considers this necessary

3 CHAIR AND VICE CHAIR

3.1 The Panel will be chaired by the Independent Member.

3.2 One Panel member will be appointed to act as Vice Chair and will Chair the Panel in the absence of the Chair.

4 QUORUM

4.1 A Quorum will consist of no less than three Panel members excluding the Medical and Legal Advisors.

(Aberdeenshire Constitution for Fostering Panel 09 03 2017)

Present

g. With reference to the present position, are the answers to any of the above questions different?

Details provided in **Appendix 1 Tables 1 and 2**. Basis for information as at 1.8 (a) i and ii.

Changes to current qualifications and experience required is provided in **Appendix 1 Table 2**

h. If so, please give details.

Details provided in **Appendix 1 Table 1**. Basis for information as at 18 (a) i. and ii.

Information current qualifications and experience required is provided in **Appendix 1 Table 1**.

(ii) Foster carers

Past

a. How were foster carers identified and approved/registered?

There is evidence from 1932 that prospective foster carers applied to the Public Assistance Department. **(1932 08-09)** This required the applicant to give details of their family, occupation, religion, and details of their house. They were required to give two character references. The application was based on them having read the 'Rules for Guardians of Boarded Out Children'

The 1948 Act (s.14 (2) (b)) added to existing law whereby there were provisions in the legislation for ensuring that the household into which a child was boarded was approved. This contrasted to previous regulations which stated the type of household into which a child could not be boarded. Norrie notes: Vetting had indeed been introduced very shortly before the 1948 Act was passed, when Part C of the Care and Training Regulations, 1933 was replaced by the Children (Boarding-out, etc.) (Scotland) Regulations, 1947.

The Social Work (Scotland) Act 1968 gave power to the Secretary of State to make regulations governing how local authorities exercised their boarding out functions. New regulations (the first since 1959) were implemented on 1 April 1986. The Boarding-out and Fostering of Children (Scotland) Regulations 1985 required local authorities to establish fostering panels, whose functions were to consider every person referred to it by the care authority as a prospective foster parent and to make recommendations to the care authority as to the suitability of such a person to act as a foster parent either for any child, any category of child or any particular child. (Norrie 2017 p 168)

Subsequently the Fostering of Children (Scotland) Regulations 1996 were revoked by the Looked After (Children (Scotland) Regulations 2009 which have governed public fostering arrangements from 28th September 2009 until the present day. Norrie (2017 p.179). Quoting from Wilkinson and Norrie he states: Since the coming into force of the 2009 Regulations there has been no limitation on the type of family structure that potential foster carers can belong to and foster carers are assessed as suitable according to their own merits, without legally specified preconceptions about their lifestyles.

Minute of Adoption and Fostering Panel for Grampian South held on 18 January 1988 is attached as evidence of Grampian Regional Council complying with the 1985 Regulations. (Adoption & Fostering Panel 18.1.88)

b. What experience and/or qualifications, if any, did a foster carer require to have?

There is no specific experience or qualifications required to be approved as a foster carer. As noted in 1.2 e) training is provided with progression through skills levels.

c. What checks were carried out in relation to a prospective foster carer, including criminal record checks, references and interviews?

Prior to 1995 this is unknown but from this time the starting point is Schedule 3 of the Children (Scotland) Act 1995. This is now superseded by the Looked After Children Regulations Part VII Fostering. Checks are made on finances and PVG checks on criminal background. References are taken up with current employers as well as an education and employment history. Medical checks are carried out with a duty of care not to place a child in a home where the lifestyle may not be healthy for the child. A minimum of six written references are required and these will be followed up with a telephone or face to face interview.

d. What checks were carried out in relation to other persons residing with the prospective foster carer, including criminal record checks, references and interviews?

Again, prior to 1995 there is no definitive information. Within the current regulations, if prospective carers have birth children workers will send a request to the current school to get a report on presentation and behaviours. Other adults in the household will be subject to PVG (Disclosure Scotland) checks.

e. What checks were carried out in relation to other family members and friends of a prospective foster carer including criminal record checks, references and interviews?

Family members living at home will be subject to Disclosure Scotland checks.

f. To what extent, if any, were the checks referred to at paras (c) to (e) above reviewed? If so, how frequently and what checks were done? If not, why not?

Annual reviews are now carried out which include update checks.

g. What checks were carried out by the local authority of the available accommodation? How frequently were these carried out? Were they repeated? If so, how frequently? If not, why not?

A foster carer's registration sits alongside their address, so the environment is also checked. As part of the assessment, the house will have a Health and Safety check which covers whether they have house and car insurance, whether it meets fire standards re smoke alarms, is the boiler tested regularly, the sleeping arrangements and the location of any foster children to get quick access to the main carer in the middle of the night, etc. The outside garden area is and location are subject to Health and Safety checks.

h. Was the gender of the foster carer of any relevance to approval as a foster carer or in relation to the placement of a child with a particular carer? If so, why?

The Fostering of Children (Scotland) Regulations 1996 were revoked by the Looked After (Children (Scotland) Regulations 2009 which have governed public fostering arrangements from 28th September 2009 until the present day. Norrie (2017 p.179). Quoting from Wilkinson and Norrie he states: Since the coming into force of the 2009 Regulations there has been no limitation on the type of family structure that potential foster carers can belong to and foster carers are assessed as suitable according to their own merits, without legally specified preconceptions about their lifestyles.

i. Was the gender of other persons (including children) residing in the same house of any relevance to the approval of a foster carer or to the placement of a child with a carer? If so, why?

Not to our knowledge

j. Were foster carers required to provide any services for children in their care beyond accommodating them? If so, what were they?

Nothing specific outside the caring role.

k. Did children work manually in the placement or externally (e.g. farming work or other labour), or both? If so, did that change at any point? If so, why?

There is no specific evidence of this within the documents currently researched. The 1932 Rules for Guardians (1932 02) state that: No child should be taken from school for employment in herding, berry gathering, or other such employment during school hours.

l. Were fostering agreements entered into? If so, were these in a prescribed form or created on an ad hoc basis?

There is no evidence of specific fostering agreements in historical documents though there is an expectation that guardians will have read and agree to the Rules for Guardians (1932 01-04) and later the Children Act 1948 Protection of Children (1948 01-02)

Currently within Aberdeenshire a Foster Care Agreement is made between the carer, Aberdeenshire Council and the Young People's Service setting out the responsibilities and obligations on each party. This is based on the Looked After Children (Scotland) Regulations 2009 and most recently updated in 2017. (Attach from Arcadia)

Present

m. With reference to the present position, are the answers to any of the above questions different?

No. See 1.8 ii) l) above for current position.

n. If so, please give details.

Not applicable

2. Organisational Structure and Oversight

2.1 Culture

Past

a. What was the nature of the culture within the local authority in relation to the provision of foster care?

Since the inception of Aberdeenshire Council in 1996 within Children's Social Work Services, we would expect compliance with statutory requirements both in practice, and to be reflected in application of practice i.e. child-centred approaches to working with Children and Families. The expectation was for compliance with National Standards in Foster care (1999 and 2002) and National Practice/Policy as well as within the legislation.

b. Was that culture reflected in the local authority's policies, procedures and/or practice in relation the provision of foster care?

Yes

c. How can that be demonstrated?

We feel this has been demonstrated through previous responses especially under 1.5 Ethos. Other evidence is via Inspections reports (2006 02 16 01-04), Children's Services Plan 1998 – 2001 (1998 06 11 01-08) and 2012 – 2015 (2012 06 14 01-03)

d. Did the provision of care by foster carers reflect the local authority's culture, policies and procedures?

Yes, since 1996, the expectations for Children's Social Work Services would that provision of care by foster carers complied with Aberdeenshire policies and procedures. This is reviewed annually and by the linkworker on an ongoing basis.

e. If not, please provide a representative range of examples and explain, by reference to those examples, why particular foster carers did not, in material ways, work in accordance with the local authority's then culture, policies and procedures and what, if anything, was done to change that?

Unknown prior to Aberdeenshire Council. Answer is subject to further research for Parts C and D

f. When and why did any changes in the culture of the local authority in relation to the provision of foster care come about?

Changes in culture and ethos were governed by Legislation, National Policy, research and inspection reports

g. Were any changes in culture driven by internal influences, incidents, experiences or events within the local authority, or any of the foster care placements?

Not to our knowledge.

h. Were there any changes in culture that were driven by abuse, or alleged abuse, of children in foster care?

Not to our knowledge

i. If so, when did they occur and how did they manifest themselves?

Not applicable

j. Were any changes in culture driven by any external influences or factors and if so what were those influences or factors?

External influences would be the changing legislation driven by the cultural mores of the time.

Present

k. With reference to the present position, are the answers to any of the above questions different?

No

l. If so, please give details.

Not applicable.

m. To what extent, if any, has abuse or alleged abuse of children cared for in foster care caused, or contributed to, the adoption of the current policies, procedures and/or practices of the local authority, in relation to the provision of foster care services for children including the safeguarding and child protection arrangements applying to its current foster care placements?

Aberdeenshire has policies in place and complies with all safeguarding and child protection arrangements. These have been developed in line with the legislation as opposed to a reaction to any events within Aberdeenshire.

2.2 Structure, leadership and accountability

Past

a. What was the structure of responsibility within the local authority in relation to foster care?

Charts showing both the organisational and establishment structure are provided in Appendix 1 - Table 3 Organisation Charts.

The charts:

- show the organisational structure
- show the organisational and establishment structure at a snapshot in time based on data extracted at the end of each financial year
- include numbers of 'job holders' rather than headcount (this means that an employee holding more than one post will be counted for each post held)

b. What were the oversight and supervision arrangements by senior management?

See 2.2 d). Linkworkers are supervised by the responsible team manager.

c. What were the lines of accountability?

See 2.2 d)

d. Within the local authority, who had senior management/corporate/ organisational responsibility for the managers/management teams/leadership teams who had responsibilities in relation to children in foster care?

Since 1995 foster care teams were organised by area within Aberdeenshire. The reporting responsibility was Team Manager to the Social Work Manager (Community Placement) to the Head of Service (either North, Central or South) to Director of Social Work and Housing (from 1995 to 2014) and Director of Education and Children's Services (2014 to present). Director of Service was responsible to the relevant Council Committees and Chief Executive of the Council.

e. Who, within the local authority, took decisions on matters of policy, procedure and/or practice in relation to foster care?

Since 1996 these are taken by senior management i.e. social work managers and head of service through consultation exercises if appropriate. Policies and procedures are discussed at committee and Council; level prior to being adopted.

f. To whom were foster carers accountable?

Accountable to the local authority

g. Who, within the local authority, was responsible for the implementation of, and compliance with, the local authority's policies, procedures and/or practices in foster care both by local authority staff and by foster carers?

The management reporting relationships are outlined in 2.2 b) and d).

h. To whom were fostering panels accountable?

The fostering panel makes recommendations to the Agency Decision Maker who is the Social Work manager (Community Support). This person makes a decision on applications. Any appeal is considered under the Appeal Procedures for the Panel.

i. What were the oversight and supervision arrangements in respect of fostering panels?

This is governed by the Constitution of the Panel.

Present

j. With reference to the present position, are the answers to any of the above questions different?

No

k. If so, please give details

Not applicable.

2.3 External Oversight

Past

a. What were the arrangements for external oversight of the local authority's foster care services?

There were standard external oversight arrangements which applied to local authorities over the period in question. For example, the Social Work Inspection Agency, the Care Inspectorate, the Scottish Public Services Ombudsman and Audit Scotland.

In 2003 Aberdeenshire undertook a Best Value Review of its Adoption and Fostering Service measuring the existing service against the National Standards (2006 02 16 01) The recommendations of the Review were implemented into an action plan and the service continues to aim to achieve them. (2006 02 16 05-10)

The National Standards for Family Placement Services were introduced in 2003. Inspection of Adoption and Fostering Services against these Standards commenced in 2004. Aberdeenshire took part in the pilot inspection of Family Placement Services. This inspection by the Care Commission took place from 28 April 2005 to 17 May 2005. Subsequent inspections took place within the enquiry period in October 2006, March 2008, February 2009, March 2010, February 2013, January 2014, February 2015 and March 2017

b. Who visited the local authority's foster care services in an official or statutory capacity and for what purpose?

As noted above in 2.3 a) Care Commission and subsequently Care Inspectorate inspectors visited Aberdeenshire to carry out these inspections.

c. How often did this occur?

See dates in 2.3 a)

d. What did these visits involve in practice?

The inspection in 2009 notes - Prior to the inspection an annual return, disseminating information about the service was submitted to the care Commission along with a self-evaluation which supported evidence of the meeting of key Standards and the requirement of the Quality Themes. Further evidence was provided to the Care Commission in the form of policies, procedures, practice guidance, information leaflets and records. In the course of the inspection a range of staff, foster carers, adoptive families, and children and young people receiving a service were interviewed by care Commission Inspectors. (2009 09 10 01)

Present

e. With reference to the present position, are the answers to any of the above questions different?

No

f. If so, please give details.

Not applicable