

## Covering statement

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## Covid-19 Restrictions

Due to Covid-19 restrictions, Council staff have been unable to access Council buildings and records. This led to the premature ending of a comprehensive file audit and has limited the research opportunities and materials available to staff in compiling the responses listed below.

### PART D – ABUSE AND RESPONSE


#### 5. Abuse

Question 5.10	<u>Civil Actions</u>
a)	<p><u>How many civil actions have been brought against the local authority relating to abuse, or alleged abuse, of children in foster care?</u></p> <p>We have found evidence of two civil actions (see responses below).</p>
<p><u>For each such civil action, please answer the following:</u></p>	
b)	<u>Who brought the action?</u>
c)	<u>When was the action brought?</u>
d)	<u>Against whom was the action brought?</u>
e)	<u>What was the nature of the abuse, or alleged abuse, to which the action related?</u>
f)	<u>What were the names of the persons said to have, or alleged to have, committed abuse?</u>
g)	<u>When/over what period was the abuse said, or alleged, to have taken place?</u>

h)	<u>How did the action progress?</u>
i)	<u>Was the action settled on a conditional basis of confidentiality?</u>
j)	<u>Who was/were the local authority's legal representative(s) in relation to the civil action?</u>
k)	<u>Did the local authority carry insurance for meeting civil claims at the time the action was live?</u>
l)	<u>How/where can copies of the court papers relating to the civil action be made available to the Inquiry?</u>

<b>Civil Action 1</b>		
	<b>Question</b>	<b>Response</b>
b)	Who brought the action?	██████████
c)	When was the action brought?	The action was raised on 7 November 2001
d)	Against whom was the action brought?	The City of Edinburgh Council
e)	What was the nature of the abuse, or alleged abuse, to which the action related?	There were three claims:  (1) Failure to provide adequate care and support. (2) Failure to safeguard health, development and welfare. (3) Subjection to cruel and unusual punishment.
f)	What were the names of the persons said to have, or alleged to have, committed the abuse?	FYX ██████████
g)	When/over what period was the abuse said, or alleged, to have taken place?	On or around ██████████ 1966 to ██████████ 1984
h)	How did the action progress?	From the information available, after the action was raised in late 2001 and defences lodged, the case was sisted for 6 months and then continued on the adjustment roll for some time. After the record closed there was an amendment procedure, and the action then concluded by joint minute in December 2004. The joint minute allowed for decree of absolvitor on a no expenses due to or by basis. It is believed that the claim was thrown out due to time bar.

i)	Was the action settled on a conditional basis of confidentiality?	There is no available paperwork regarding this point, but anecdotal evidence suggests that a confidentiality agreement was not entered into.
j)	Who was/were the local authority's legal representative(s) in relation to the civil action?	Simpson and Marwick
k)	Did the local authority carry insurance for meeting civil claims at the time the action was live?	The insurance position in relation to this claim is complicated as it was covered by a number of insurers across the period of the alleged abuse.  There is a period of time which is in dispute with the insurance company who held the policy at that time.
l)	How/where can copies of the court papers relating to the civil action be made available to the Inquiry?	The City of Edinburgh Council have a copy of the Court of Session process and papers in relation to the above.

<b>Civil Action 2</b>		
	<b>Question</b>	<b>Response</b>
b)	Who brought the action?	
c)	When was the action brought?	Our records suggest that a court action was raised at some time in 1999.
d)	Against whom was the action brought?	Lothian Regional Council (City of Edinburgh Council is the leading Council for the claims being brought against Lothian Regional Council)
e)	What was the nature of the abuse, or alleged abuse, to which the action related?	Alleged sexual abuse by the claimant's natural father. Another document we hold suggests that there was abuse alleged to have been committed by a foster parent against the claimant.
f)	What were the names of the persons said to have, or alleged to have, committed the abuse?	Unknown.
g)	When/over what period was the abuse said, or alleged, to have taken place?	Due to COVID-19, we have been unable to locate this information.
h)	How did the action progress?	Due to COVID-19, we have been unable to locate this information.



i)	Was the action settled on a conditional basis of confidentiality?	Due to COVID-19, we have been unable to locate any evidence of a settlement agreement or similar.
j)	Who was/were the local authority's legal representative(s) in relation to the civil action?	Simpson & Marwick
k)	Did the local authority carry insurance for meeting civil claims at the time the action was live?	Yes, the indemnity claim was made against a policy which was in place from 1976 until 1992.
l)	How/where can copies of the court papers relating to the civil action be made available to the Inquiry?	We do not hold copies of the court papers. We only hold correspondence between the City of Edinburgh Council, West Lothian Council and the claimant's solicitor relating to the action.