

1 Thursday, 3 November 2022

2 (10.00 am)

3 LADY SMITH: Good morning and welcome back to oral evidence
4 in our foster care and boarding-out case study, as we
5 return to Local Authority evidence and move this morning
6 to Perth and Kinross as planned, yes?

7 MS INNES: Yes, my Lady. The witness, Jacquie Pepper, is
8 here.

9 LADY SMITH: Thank you.

10 Jacquie Pepper (sworn)

11 LADY SMITH: Before we begin, help me with this. How would
12 you like me to address you? Would you like me to use
13 your first name --

14 A. Yes, that's perfectly fine, thanks, my Lady.

15 LADY SMITH: Is that alright, Jacquie?

16 The red folder has documents in which no doubt
17 you'll recognise, they come from your council, and thank
18 you for the help we've been given in getting those here.
19 But also we'll bring documents up on screen as we go
20 through your evidence and you might find it useful to
21 use either the screen versions or the folder versions,
22 whichever works.

23 Otherwise, if you have any questions or queries,
24 please speak up, don't hesitate to ask, or if there's
25 anything else I can do to help you give your evidence as

1 clearly and comfortably as you can. Please don't worry
2 about it, and I know there's an awful lot of material
3 you've given us and this isn't an oral examination.
4 It's rather what we hope will be a constructive
5 discussion that will further our learning and mine what
6 nuggets you can give us and help us with.

7 I usually take a break at about 11.30, but if you
8 want a break at any other time, just say, would you?

9 A. Yes, thank you very much, my Lady.

10 LADY SMITH: Very well. If you're ready, I'll hand over to
11 Ms Innes and she'll take it from there. Thank you.

12 Questions from Ms Innes

13 MS INNES: Good morning, Jacquie. Could I start by asking
14 you your date of birth, please?

15 A. My date of birth is [REDACTED] 1962.

16 Q. You've provided the Inquiry with a copy of your CV and
17 in that you tell us that you qualified as a social
18 worker in 1986?

19 A. That's correct.

20 Q. You commenced work that year as a social worker I think
21 with Strathclyde Regional Council as a generic social
22 worker and then I think you moved from there to Wales?

23 A. I did, yes.

24 Q. And you worked in Wales from March 1991 to April 1999;
25 is that right?

1 A. 1998, actually.

2 Q. 1998, okay. Then you spent a period in -- I think you
3 were briefly in Scottish Borders?

4 A. That's correct.

5 Q. Again working as, at that time, a senior social worker?

6 A. Yes.

7 Q. And that was in children and families?

8 A. Yes, that's correct.

9 Q. In September 1999 you tell us that you moved to the City
10 of Edinburgh Council and you were a Senior Officer
11 Childcare Partnership I think was your job title?

12 A. Yes.

13 Q. You were lead officer for a specific project; is that
14 right?

15 A. It was in relation to the Child Care Strategy as in
16 children's care, not -- care as in out-of-school care or
17 childminding --

18 Q. Yes.

19 A. -- and also the sure start programme, yes.

20 Q. Then in March 2003 you moved to the Care Commission and
21 you worked there as a team manager until August 2005?

22 A. Yes.

23 Q. In that role you say that you managed registration and
24 inspection of all care services, so it was a variety of
25 care services at that time?

1 A. That's correct. That's the way it was organised at that
2 point.

3 Q. Then you moved to Her Majesty's Inspectorate of
4 Education?

5 A. Yes.

6 Q. Working as an inspector up until April 2011.

7 Then from there you moved to the Care Inspectorate.

8 A. Mm-hmm.

9 Q. Where you worked initially as a senior inspector and
10 then as Head of Inspection for Children's Services and
11 Criminal Justice?

12 A. Yes, that's correct.

13 Q. In June 2014 you moved to Perth and Kinross Council; is
14 that right?

15 A. I did.

16 Q. I think you've held various roles since moving to Perth
17 and Kinross Council. Initially you were Head of
18 Services for Children, Young People and Families?

19 A. Yes.

20 Q. Then in May 2017 you became Chief Social Work Officer,
21 which you still are?

22 A. Yes.

23 Q. Although your job has changed?

24 A. Yes.

25 Q. May 2018 you were Deputy Director of Education and

1 Children's Services, and then earlier this year you
2 became Chief Officer of Integrated Health and Social
3 Care?

4 A. That's correct.

5 Q. If I can move now to the response that Perth and Kinross
6 Council provided to the Inquiry, obviously you were
7 working with Perth and Kinross Council over the period
8 that the response to the Section 21 notice was being
9 prepared --

10 A. Yes.

11 Q. -- and subsequently. In relation to the preparation of
12 the response, were you involved in that? Did you head
13 that up, for example?

14 A. Yes, thanks. We established a steering group of various
15 staff with various responsibilities and I led that
16 steering group and led the response to the Inquiry.

17 Q. We'll come in a moment to look at the methodology that
18 you deployed, but if we look at what's on the screen in
19 front of us just now at PKC-000000035 and question 1.1,
20 we can see there that Perth and Kinross has obviously
21 been in existence since April 1996. Prior to that it
22 formed part of Tayside Regional Council and in the early
23 period, so prior to 1975, the relevant social work
24 functions were split between Perth Town Council, Burgh
25 Councils and Perth and Kinross Combined County Council?

1 A. Yes.

2 Q. Those were the authorities that were in place prior to
3 1975?

4 A. Yes, that's correct.

5 Q. If we can look, please, at another document in which you
6 set out the methodology that you adopted, so it's
7 PKC-000000121 and here you're addressing questions posed
8 by the Inquiry in relation to the methodology of case
9 file review that you carried out?

10 A. Yes.

11 Q. I wonder if you can tell us how you went about that?

12 A. Thank you very much. Yes, all our social work records
13 for the period in question were contained within our
14 electronic social care management system called SWIFT.
15 And you'll see there that because these were scanned in
16 a project that took place in 2015, those handwritten or
17 typed documents were scanned into our electronic records
18 and we were aware that some -- or the paper files
19 relating to the Inquiry were destroyed at the point of
20 the completion of that project.

21 So we embarked upon a search of those records and
22 you'll see from our submissions that we screened all
23 available records for children who had been in foster
24 care, and that was over 2,700 records, and we also
25 established the records in relation to known foster

1 carers for the period as well.

2 So the methodology that we deployed was engaging
3 staff -- current staff with familiarity with our
4 electronic system in a search ... in a stage 1 search of
5 screening all of those records, and that was to screen
6 in, if you like, content within those records that
7 related to allegations of abuse in those foster care
8 settings.

9 Q. Okay, so if we look at stage 1 at the moment, you
10 provided us with some documents which were the
11 instructions I think that were given to staff involved
12 in this so if we can look, please, at PKC-000000124,
13 first of all. The first couple of pages set out
14 a process how the person would access the files. If we
15 go on to page 2 in the bottom part of the page it talks
16 about what the file readers should do at the time of
17 accessing the documents?

18 A. Yeah.

19 Q. At the bottom of the page it refers to keywords you may
20 wish to search on?

21 A. Yes.

22 Q. We'll come back to that in a moment.

23 Then if we go on to the top of the next page, you
24 underline that the reader is looking for evidence that
25 the child or young person was abused or alleged to have

1 been abused by the carer or foster carer. Nothing else
2 at this stage. And you say remember it's about abuse in
3 foster care --
4 A. Yes.
5 Q. -- it's not other issues that they should be
6 highlighting.
7 A. Mm.
8 Q. If we scroll down below, there's reference to a template
9 and then it says that the following information should
10 be recorded?
11 A. Yes.
12 Q. Date of allegation, details of allegation,
13 de-registration information and anything other relevant,
14 and then once that was done it would be passed to
15 Margaret Steel, who I assume is maybe a team leader?
16 A. Margaret's our Business Resources Manager, yes.
17 Q. Then there's an instruction that if there was any doubt
18 as to what the person was reading or interpreting --
19 A. Yes.
20 Q. -- then that should be escalated?
21 A. Yeah.
22 Q. If there were any questions.
23 If I can go to PKC-000000127, this is the list of
24 words that you gave, if we scroll down a little we can
25 see the list that you suggested. So various words like

1 "abuse", "assault", "court", "complaints".

2 A. Yeah.

3 Q. "Charges" or "charged". So a variety of different words

4 there that --

5 A. Yes.

6 Q. -- the file readers were to search through.

7 At stage 1 do you know were the readers relying

8 solely on this electronic search as a first scan?

9 A. Yes, because all our documentation's on that system.

10 Q. Okay. Sometimes it can be quite difficult to have

11 an effective electronic search of a document --

12 A. Yes.

13 Q. -- if there's handwritten documents within the files,

14 for example.

15 A. Yes, I think we or appropriate staff trialled this as

16 a method to see its efficacy, but I think we acknowledge

17 that there will be situations where some of the

18 handwritten documentation or even typed documentation

19 may not be as clear as we might hope and that therefore

20 some things may not have the clarity in the scan

21 document that they may have in the electronic means by

22 which we record information now.

23 Q. So that was your first screen?

24 A. Yes.

25 Q. I think the file readers were to complete a template

1 following that screen, whether it was a child's file or
2 a foster carer file?

3 A. Mm-hmm.

4 Q. Then you went to another stage and if we could look,
5 please, at PKC-000000128, we see there that there's
6 a further template, which I understand to be the
7 template that was used at the second stage. Can you
8 tell us what was happening at the second stage of
9 review?

10 A. Can I just refer you to stage 3, because if there was
11 any positive identification at that initial screening
12 process then those cases would be considered for
13 a fuller review and that review would have been
14 undertaken by professional staff, either existing staff
15 with social work qualifications or recently retired
16 staff that we drafted in to complete that exercise.

17 Q. Okay. So which files went to stage 2 and what did that
18 involve?

19 A. Stage 2, we carried out an exercise -- we originally had
20 intended to sample 200 children at stage 2, because
21 stage 2 was much more about -- less of a focus on
22 allegations of abuse but much more on the practice in
23 relation to foster care and the practices across the
24 time frame in terms of all of the questions around
25 culture, ethos, the nurture and care that children were

1 receiving, so it was for that intention.

2 Q. So that was a separate exercise?

3 A. Yes.

4 Q. I think you said you intended to sample 200 children's

5 files?

6 A. Yes.

7 Q. But I think that you tell us in your response that you

8 ended up being able to look at 100 I think before

9 lockdown?

10 A. That's correct.

11 Q. If we move to the stage 3 template so that we can see

12 that, it's at PKC-000000129, and this seems to be

13 a template with more questions about, for example, who

14 were the foster carers, what was their registration

15 status, what checks were carried out, who else resided

16 in the household, were regular checks carried out. Then

17 it goes on on page 2 to talk about other people in the

18 household, for example it covers fostering agreements

19 and whether they were in place.

20 A. Mm-hmm.

21 Q. Then if we go to page 3 it talks about moves of

22 placement, how was the move managed, was the child

23 supported, and it obviously goes on from there. I mean

24 this is quite a lengthy template.

25 A. Yes.

1 Q. That was the template that was completed at stage 3 when
2 you were looking at a file in detail?

3 A. Yes, that's correct.

4 Q. Okay. If we can maybe have a look at -- yes, if we can
5 go back to PKC-000000121 again and if we can move to
6 page 2, at the bottom of the page there's reference
7 there to 38 files being read?

8 A. Yes.

9 Q. Is that the number of files that were looked at in
10 detail or was it more than that?

11 A. No, those are the numbers of files that we looked at in
12 detail at the point of our -- up to the point of our
13 submission of our Section 21 notice.

14 Q. Okay.

15 A. Some of those records were identified through the
16 stage 1 screening process. Others were already selected
17 because of the knowledge that we had within our staff
18 group and former staff around cases that had led to
19 convictions.

20 Q. Okay. If we can move on to Part D of your response and
21 we'll come back to the convictions in a moment, but one
22 of the things that you highlighted in your Part D
23 response was a historical review that you were able to
24 find. If we can look, please, at PKC-000000035 and
25 page 318, and in the middle of the page there's

1 a question about external investigations and you refer
2 there to having found a national inquiry report from
3 1975 within the council's archives?

4 A. Yes.

5 Q. If we can look, please, at that document, so
6 SGV.001.008.6880.

7 If we look on to page 6. We see that there was
8 an appointment of a committee in 1974 to report to the
9 Secretary of State for Scotland in respect of a child,
10 Richard Clark.

11 I appreciate this is a historical document. Do you
12 know what gave rise to this report?

13 A. I do from reading this report. The initiation of the
14 inquiry followed the admission of a child to hospital
15 with serious head injuries and that those serious head
16 injuries had occurred in the care of a family into which
17 the child had been placed and there's some consideration
18 about whether it was the child's birth family that had
19 placed him into the care of that family or whether that
20 was the responsibility of the town council at that point
21 in time.

22 Q. So there was an issue about whether the town council had
23 responsibility --

24 A. Yes.

25 Q. -- I think in terms of the arrangement. I think that

1 the conclusion, if we go on to page 24, at the bottom of
2 the page, in the last couple of sentences it says:

3 "The boys were neither received into care by the
4 town council at any relevant time."

5 However, if we go on over the page, it then says:

6 "However, on [REDACTED] the boys, by virtue of their
7 period of residence with the [people who they were
8 living with at the time of the injuries] became foster
9 children within the meaning of section 2(1) and 3(f) of
10 the 1958 Act."

11 Essentially I think the conclusion was that it was
12 a private fostering arrangement, but at paragraph 57 it
13 says that the town council came under a statutory duty
14 to secure the welfare of the boys on [REDACTED] and
15 remained under that duty until the boy was admitted to
16 hospital.

17 A. Yes.

18 Q. So I think that was the -- as you said, that was one of
19 the issues that the inquiry had to address?

20 A. Yes.

21 Q. If we can move on please to page 35, there are some
22 general conclusions there. At paragraph 88 there's
23 reference to I think various employees of the town
24 council and it says that they hadn't "at any time
25 attempted to get the boys to talk about their feelings".

1 I think one of the children was expressing to somebody
2 else in the community that he didn't want to go home,
3 that he wanted to stay with her.

4 A. Yes.

5 Q. She asked about bruises that he had. So there appeared
6 to be some concerns being raised but the social workers
7 weren't speaking to the children directly about it.

8 A. Yes.

9 Q. I assume you would say that you do need to speak to
10 children about what's going on?

11 A. Absolutely. I think from reading this record here of
12 the enquiry report there were a number of occasions
13 where the child was seen by a number of people to have
14 bruising or observed to be not himself and on some
15 occasions those were notified to social workers and on
16 other occasions they weren't, so there are some real
17 lessons here in terms of that observation and the need
18 to see the child.

19 I think there are also indications where the child
20 was examined but not examined fully, so it's a -- you
21 know, there are some significant lessons from this
22 report.

23 Q. Yes. I think there were medical examinations when he
24 wasn't examined fully --

25 A. Yeah.

1 Q. -- that are highlighted in the report.

2 At paragraph 90 it says:

3 "We feel that a case so complex and unusual as this
4 merited a case conference although none was called
5 between February and May. If such a conference had been
6 called it is possible, as Mr Burrowes told us, that
7 [people] from the RSSPCC or [the lady to whom the child
8 had made disclosures] as well as [the social workers].
9 At such a conference it is reasonable to assume that the
10 discussion would have taken place which would have
11 focused more clearly the problems inherent in the
12 situation ..."

13 I suppose that's something else that's highlighted
14 in the report, the need for a discussion between
15 relevant professionals?

16 A. Yes. I think in reading the report in the round, you
17 can draw conclusions from this that there were actions
18 being taken in a singular fashion rather than in
19 a collective fashion, so I think that's what this
20 paragraph is referring to, that it would have been
21 preferable to hold a multi-professional case conference
22 in this instance, yes.

23 Q. Then at paragraph 91, the issue highlighted there is
24 a social work department requiring their social workers
25 to undertake all types of work, as in Perth, and I think

1 historically social workers did have a generic caseload,
2 I think you mentioned that at the beginning of your
3 career you had a generic caseload?
4 A. (Witness nods)
5 Q. Then it says there:
6 "At the present time it appears that social work is
7 moving from a situation where specialisms were rigidly
8 demarcated to one where the demarcation between them is
9 less clearly defined but where, nevertheless,
10 specialised knowledge is required for efficient
11 practice. We believe that when work is being allocated,
12 more attention should be paid to relating the tasks and
13 problems which the case presents to the competence and
14 experience of the worker who is to undertake it."
15 Then it says:
16 "While a social work department may be responsible
17 for all branches of social work within its area we are
18 doubtful whether it follows that every social worker
19 should be considered to be properly equipped to deal
20 with every case for which the department is
21 responsible."
22 I suppose there are a couple of things within that,
23 one highlighting the need for the social worker to have
24 the relevant knowledge and experience.
25 A. Mm-hmm.

1 Q. Is that something that has changed over time, it's
2 different now?

3 A. Well, currently the social work training and our
4 organisation is in specialisms, so -- and our child
5 protection response and our foster care support and
6 duties around that tend to be within specialist teams
7 where staff have the relevant knowledge, expertise and
8 continued development in that particular area.

9 I think in this report reflecting on the structure
10 at that time that's also appended in the report,
11 I suspect that there may have been less staff around at
12 that point in time as well, so I think there were --
13 there's some references to capacity as well as to the
14 need for expertise in this particular area.

15 Q. Yes, I think you mentioned structure there and there's
16 a structure at page 41, which shows us that the Director
17 of Social Work had responsibilities for various
18 departments and I think we might -- it's probably quite
19 hard to see, but there are obviously different areas,
20 including management of home, centres, temporary
21 accommodation, home help organisation, as well as
22 community social work. And if we see that the social
23 work team itself seemed to be two senior social workers,
24 a social work assistant, a social work trainee, so ...

25 A. Mm.

1 LADY SMITH: Jacquie, I appreciate this narrative is of its
2 time, but as I read comments such as "while the social
3 work department may be responsible for all branches of
4 social work, we're doubtful whether it follows that
5 every social worker should be considered to be properly
6 equipped to deal with every case for which the
7 department's responsible", end story. It sounds quite
8 defeatist and what we're not seeing in this document,
9 maybe it happened elsewhere after that, is any sign of
10 them flagging up something needs to be done about this.

11 A. Yes.

12 LADY SMITH: We can't go on like this, particularly where
13 the interests of children are at stake.

14 A. And I think in terms of this being a historical document
15 and of its time, recognising the legislation within
16 which the social work service was operating would be
17 perhaps looser than it is now and we have private
18 fostering regulations and legislation around that that
19 was not in place at that point of time.

20 LADY SMITH: Yes.

21 A. Well, there were references to it, but there's national
22 guidance and expectations around all of that.

23 So it is a historical document, but I think the
24 lessons in this case that relate to foster care, private
25 fostering, and arrangements within families and the

1 complexities around that are still around for us today.

2 LADY SMITH: Yes. It perhaps wasn't being grasped as fully

3 as it should have been at that time, although they did

4 pick up the failure of the council to recognise its own

5 legal duties. They couldn't ignore this set of

6 circumstances.

7 A. Yeah.

8 LADY SMITH: That these children actually came under their

9 remit once this placement had gone on for the time that

10 it did.

11 A. Mm-hmm.

12 LADY SMITH: The other thing I was struck by was earlier on

13 in the report of what had been happening with the

14 children was one of the children being told not to tell

15 tales when they were trying to explain what was

16 happening.

17 A. Mm-hmm.

18 LADY SMITH: We've seen that elsewhere, an assumption that

19 the children are lying and the people caring for them

20 are fine and nothing bad is happening at all.

21 A. Yeah. Can I respond to that?

22 LADY SMITH: Yes, please do.

23 A. Because I think in addition to that I think what we see

24 is an identification with the adults --

25 LADY SMITH: Yes.

1 A. -- over and above the child. So looking at this -- you
2 know, with some distance in terms of time -- you can see
3 how the people involved in this case were identifying
4 with the adults' situation and seeing it through that
5 lens rather than the lens of the child.

6 LADY SMITH: Yes. Thank you.

7 Ms Innes.

8 MS INNES: Thank you, my Lady.

9 If we can move on to PKC-000000131, this is a minute
10 of a meeting that took place after this report. So if
11 we scroll down, social work committee 20 February 1975,
12 and it refers to the report of the committee of inquiry
13 and then at the bottom it says:

14 "Resolved."

15 So the committee resolved:

16 "The following procedures, so far as not already
17 operative, be adopted in the social work department."

18 Then for example number one:

19 "In allocating social work cases, particular
20 attention be paid by the responsible member of staff to
21 the competence and experience of the social worker to
22 whom it is proposed to be allocated."

23 That's picking up on the conclusion that we just
24 looked at.

25 A. Yes.

1 Q. Then there's at (ii), reference to:

2 "A standing case conference subcommittee consisting
3 of senior members of staff of social work department,
4 Tayside health board, police, medical profession be
5 established to be called upon at short notice ..."

6 That seems to be taking forward the idea of a case
7 conference?

8 A. I also -- I would also suggest it's also -- you know,
9 the start or the kind of commencement of the Child
10 Protection Committees and the responsibilities from
11 a multi-agency perspective, yeah.

12 Q. Then if we go over the page, there's reference to social
13 workers giving immediate consideration in all cases of
14 complex inter-family situations to the availability of
15 bringing in, without a delay, a second social worker in
16 the case. I think that might relate to something that
17 we didn't look at, which was the social worker being the
18 same for different children and different families.

19 A. Yes.

20 Q. Then the next point again refers to the need for
21 a social worker with specialist skills, so flagging that
22 up.

23 Then at (v):

24 "Social workers dealing with cases involving
25 children be instructed to encourage the children to

1 express themselves and to confide in them."

2 So that seemed to be a specific resolution at that

3 time.

4 A. Yes. Which is about elevating the child's voice, which

5 is something that, as you know in current practice is

6 emphasised. It's interesting to read that and to see

7 that being recommended in the 1970s and to see how that

8 resonates today in Perth. Because social workers

9 currently and in my experience in Perth very much see

10 themselves as being advocates for children.

11 LADY SMITH: What I don't think we see at that stage is

12 a recognition that it's one thing to tell social workers

13 that they have to do better in their communications with

14 children and in building children's trust and

15 confidence, but no sign of training them as to how you

16 do that. Would I be right in thinking that came much

17 later?

18 A. Yes.

19 LADY SMITH: Thank you.

20 MS INNES: We can see other recommendations there relating

21 to private fostering arrangements and suchlike. For

22 example, if we just look at number (ix):

23 "A confidential register of vulnerable families and

24 a system of collecting relevant information from

25 [various sources] be established in the social work

1 department."

2 I'm not sure whether that's like a precursor to
3 an at risk register or --

4 A. It seems so, because I know from reading a number of
5 documents and case histories and files myself that there
6 is reference to arrangements to support complex families
7 or problem families and then the child at risk register,
8 so we see references to that development over time.

9 Q. I'm going to move on from that particular report that
10 you drew to our attention in your response and I want to
11 move on to look at some convictions that you told us
12 about and there are four convictions that we're aware of
13 in respect of Perth and Kinross area of responsibility
14 and three of those we've not seen before, so if we could
15 look at those, please.

16 JUS-000000049 is a conviction of a Victor Smart from
17 4 October 1993.

18 Your Ladyship will see that he was convicted of six
19 charges of sexual offences.

20 He was sentenced, if we scroll down to the bottom,
21 I think to 12 years in total, four on the first three
22 charges and then eight, four and eight in respect of the
23 remaining charges, but the sentences on the remaining
24 charges running consecutively to the sentence on the
25 first three.

1 If we can look over the page, the indictment
2 includes all of the charges, so he was only convicted of
3 certain charges.

4 Looking at the first charge, a charge of sexual
5 offences in respect of a period 1 June 1988 to
6 13 January 1989.

7 If we then look down to the next charge, charge 3,
8 of which he was convicted, that's another charge of
9 sexual offences for a different period, 1 June 1988 to
10 May 1991.

11 LADY SMITH: This is another complainer.

12 MS INNES: It's another complainer, my Lady. There were
13 four complainers.

14 LADY SMITH: This one's a bit younger. The one in charges 1
15 and 2 was about 11.

16 MS INNES: Yes.

17 Then over the page at 5, so this refers again to
18 sexual offences between 1 June 1988 and 4 April 1992,
19 and again sexual offences in respect of a child born in
20 1980.

21 The same complainer is referred to -- at one of the
22 later charges, sorry.

23 LADY SMITH: 6?

24 MS INNES: No, he wasn't convicted of that. If we scroll
25 down to 8(a), which is at the bottom of the page, this

1 was a period May 1991 to 8 May 1992, and that complainer
2 was born in 1979. And that charge is in respect of the
3 same complainer at charge 3. So charge 3 and
4 charge 8(a) are the same complainer.

5 Then if we go on over the page to page 4, and if we
6 scroll down to 10(a), so it's under "or alternatively",
7 so this is the same complainer that we saw at charge 5
8 and again a period 5 April 1992 to 4 April 1993.

9 So the period of offending covered from 1 June 1988
10 to 9 May 1993, and, as I've said, was six charges in
11 respect of four complainers.

12 LADY SMITH: They were ranging in age from about nine or ten
13 years old to 12/13 years old?

14 MS INNES: Yes.

15 If we can look back, please, to PKC-000000121, if we
16 look at page 7 at the bottom of the page you were asked
17 by the Inquiry whether there had been any internal,
18 external review or significant case review. If we look
19 at Victor Smart, who is referred to at the bottom of the
20 page, in relation to that carer you say:

21 "... we can find no trace of any internal or
22 external or significant case review or initial case
23 review taking place."

24 They pre-dated the guidance.

25 If we go on to the next paragraph you note:

1 "... there does appear to have been an internal case
2 file audit carried out by Hugh O'Brien."

3 If we look down to the next paragraph it says:

4 "Having reviewed our files for Victor Smart again,
5 we can also see that the Scottish Office commissioned
6 Roger Kent to carry out a wider review of arrangements
7 for children in care in Scotland and the case file
8 indicates that information about the Smart case along
9 with information about the Carrie case [which we'll come
10 to in a moment] and other materials ... was submitted to
11 the review."

12 I think that's what you were able to find in terms
13 of follow-up to Victor Smart's conviction.

14 Was that all that you were able to find?

15 A. Yes.

16 Q. And it was an audit, it wasn't a review with
17 recommendations, for example, just to be clear?

18 A. (Witness nods)

19 Q. Just to save us coming back to this document, if we look
20 back again to page 7 and the bottom of the page where
21 you're referring to a former foster carer,
22 William Carrie. You say that you can find no trace of
23 internal or external or significant case review. Then
24 in the next paragraph you say:

25 "We have now located within a separate file a report

1 dated summary of investigative work in relation to this
2 case, which appears to have been carried out as part of
3 wider work undertaken prior to the Scottish Office Kent
4 review."

5 Again, you found a document I think which had
6 a summary of the investigation that was carried out. Is
7 that correct?

8 A. Yeah. I would need to be shown that document to
9 familiarise myself with it.

10 Q. Okay. I don't want to go to that just now --

11 A. That's fine, okay.

12 Q. But we do have that report from you, which as you say
13 was a summary of investigative work which was collated
14 and I think you tell us sent by you to the Kent Review
15 at that time.

16 A. Yeah.

17 Q. But again I don't think it contained -- it wasn't
18 a review in the sense of providing recommendations.

19 A. Mm-hmm.

20 Q. If we can look, please, at the conviction of
21 William Carrie then and that's at JUS-000000051. This
22 was a conviction from 14 September 1994 and we can see
23 that he was convicted of two charges of sexual offences
24 and I think we understand from information that you've
25 given us that he pled guilty to those charges.

1 A. (Witness nods)

2 Q. We see that the sentence was for a period of 18 months
3 on charge 1 and two years on charge 3, period running
4 concurrently. If we look on over the page to page 2,
5 charge 1, we see a charge of sexual offences between
6 [REDACTED] 1988 and [REDACTED] 1990 in respect of a child who was
7 then aged between 9 and 11.

8 Then if we scroll down to charge 3, we see another
9 charge of sexual offences against another girl who was
10 then aged 12, that was between [REDACTED] 1993 and
11 [REDACTED] 1994. Those girls were both children in
12 foster care with Mr Carrie; is that your understanding?

13 A. Yeah.

14 Q. Okay.

15 Those are two of the convictions you told us about
16 and those both relate to matters in the 1990s. You're
17 obviously also aware of the conviction of somebody
18 called Pol Martin?

19 A. Yes.

20 Q. I think you know that Pol Martin gave evidence to the
21 Inquiry?

22 A. Yes.

23 Q. Has Perth and Kinross been carrying out some
24 investigations into the circumstances surrounding
25 Mr Martin's period as a foster carer?

1 A. Yes, we have. I think we were somewhat perplexed
2 about -- or being unable to source documentation in
3 relation to Mr Martin's foster care file, and in the
4 absence of that and knowing -- you know, reading the
5 witness statements that he provided, it was important
6 and necessary for us to review all of the children who
7 had been placed with Mr Martin over a period of time and
8 we've carried that piece of work out now.

9 I commissioned an independent consultant to carry
10 that out for us in terms of a document review, someone
11 with significant experience in child protection and
12 current practices as well.

13 So we now have a report compiled by the independent
14 consultant that has reviewed all of the available
15 documentation to her at that point in time. And very
16 recently, in the last week or so, we have now located
17 Mr Martin's foster care file and have begun to examine
18 that in a bit more detail as well. So really important
19 for us to look at this whole situation in the round for
20 the duration of Mr Martin's registration as a foster
21 carer and consider all of the children who have been in
22 his care.

23 Q. Okay. I think you -- well, you've provided to the
24 Inquiry all of the files that you've now been able to
25 find?

1 A. Yeah.

2 Q. I think some were provided earlier this week, so they've
3 not yet been examined. There were some foster carer
4 files I think that you'd found at an earlier stage that
5 you submitted to the Inquiry --

6 A. Yes.

7 Q. -- but you have found additional material?

8 A. We have.

9 Q. That additional material I think also you're saying came
10 to light after the independent consultant had prepared
11 her report?

12 A. Yes, that's correct.

13 Q. Okay. If we can look, please, at the independent
14 consultant's report, it's at PKC-000000180. We can see
15 if we scroll down that this was carried out by
16 a Jacqueline Conway, an independent consultant.

17 If we go on to the second page we see a number of
18 questions she was asked to address?

19 A. Yes.

20 Q. Are those questions that you formulated?

21 A. Yes, that was to help direct her, her work, and it was
22 very important I think to include the last question
23 there, which is around an identification of any themes
24 or lessons for current practice from reading the
25 material.

1 Q. So she then refers to her methodology and she prepared
2 I think chronologies which you've also provided to the
3 Inquiry --
4 A. Yes.
5 Q. -- for various periods from her reading of the various
6 files and I think trying to synthesise information that
7 she obtained from different sources, so for example from
8 the criminal proceedings?
9 A. Yes, that's correct. I think what it does is put in one
10 place a very comprehensive chronology across all of the
11 children that were in Mr Martin's care for the period of
12 his registration and the circumstances in which they
13 were being dealt with.
14 Q. She then refers to the context and she talks about at
15 the time this happened and she says:
16 "In the 1990s the GIRFEC approach within a developed
17 culture, systems and practice was unknown."
18 She goes on to say:
19 "Sexual abuse of young people was still an area of
20 challenge and the mystery and the management of sex
21 offenders and their behaviours was a developing
22 exercise. Collaborative working had begun to
23 proliferate with policing specialisms beginning to
24 emerge."
25 A. Yes.

1 Q. She says:
2 "However offending and bad behaviour ... produced
3 a predominantly punitive approach from the police."
4 Do you know what she's talking about there?
5 A. I think what she's saying is that there was
6 an expectation where -- you know, the kind of
7 complexities and challenging behaviour that was
8 presented by children in foster care, we may have
9 children appearing before children's hearings, for
10 example, on offence grounds. I think what she's saying
11 is that it was very much about dealing with the offence
12 rather than looking at the underlying causes.
13 Q. I see. She then moves on to say:
14 "Despite the difference between current policy and
15 practice context, evidence clearly points to a culture
16 of support, a willingness to engage, a determination to
17 seek answers and solutions for the difficulties these
18 young people were experiencing."
19 So she's focusing there on the children whose files
20 she looked at?
21 A. Yes.
22 Q. Then she says:
23 "In the case of Mr Martin his care on the surface
24 appeared exemplary ..."
25 Just pausing there, from your reading of the files

1 and the chronology, would you agree with that?

2 A. I wouldn't -- are you asking me was his care exemplary

3 or are you asking me if the statement's accurate?

4 Q. She says that his care appeared exemplary.

5 A. I can't answer for Mrs Conway, but I think on reading

6 the files there's an assumption that his care was good

7 and he was doing the right thing with the right

8 motivations for young people and trying really hard with

9 the most difficult young people. So on that basis he

10 was seen to be doing well.

11 Q. I see.

12 A. And the reports of the young people were that they

13 enjoyed being in his care and in fact wanted to be in

14 his care.

15 Q. Then it says:

16 "However there was an immediate trust and acceptance

17 of his information and views that permeated the case

18 management and was rarely questioned or queried prior to

19 1997."

20 A. Yes.

21 Q. Okay, and we'll come on perhaps to talk a bit more about

22 that. She goes on in the report to deal with various

23 time periods and set out a chronology and there are

24 certain matters that I wondered if I could cover with

25 you.

1 If we can move to page 5 and paragraph 2.2, this
2 talks about how Mr Martin became a carer?

3 A. Yes.

4 Q. It notes that an assessment had been taken out and then
5 he was asked to take two boys on respite and one of
6 those is an applicant to the Inquiry with the pseudonym
7 'Anthony'.

8 A. Mm-hmm.

9 Q. It says there:

10 "Records suggested that Martin wasn't approved as
11 a carer at the time but the assessment and checks had
12 been completed and then the panel meeting responsible
13 for considering his approval was imminent."

14 A. Yes.

15 Q. We saw during the evidence of Pol Martin, we looked at
16 the chronology of that and we saw that it was noted that
17 his assessment and checks had been passed. 'Anthony'
18 was placed with him and then in [REDACTED], I think, the
19 panel took place and he was approved.

20 A. That's correct. That's my understanding.

21 Q. Is there a problem with that or, given the fact that his
22 assessment and checks had been passed, is that not
23 a problem?

24 A. There is a problem with that in that the decision around
25 the registration rests with the panel at that point in

1 time. It doesn't rest with the individual workers
2 concerned. So there's a -- you know, an indication here
3 that there was a pressing need to place these youngsters
4 and there was a willingness and an availability of
5 Mr Martin to receive those children into his care, but
6 in terms of that registration not being in place, it
7 does mean that there are issues around the legality of
8 that placement and the checks and balances and the
9 protection that that might afford everybody in this
10 situation.

11 LADY SMITH: The fostering panel could have said no.

12 A. Yes.

13 LADY SMITH: And in the meantime the council had placed
14 children with this person.

15 A. Yes. My Lady, the fostering panel would be
16 a multidisciplinary panel including medical expertise,
17 perhaps psychologist expertise or whatever, so it was
18 pre-empting the decision of the panel.

19 LADY SMITH: Yes. Taking a risk. Could be a serious risk.

20 A. (Witness nods)

21 LADY SMITH: Which might tell you something about the way
22 that part of the council was operating at that time.

23 A. (Witness nods)

24 LADY SMITH: Thank you.

25 MS INNES: If we move to the bottom of page 5 and

1 paragraph 4.1, it notes there some concerns and it talks
2 about how it came about that he applied to be a foster
3 carer and it talks about him already working with
4 teenagers and being keen to further that.

5 It then says:

6 "Although recorded as a single male, he suggested
7 his partner worked in Australia and had done for
8 approximately two years. Later it would transpire that
9 his sister was living in Australia and there was no
10 further reference anywhere to a partner."

11 Then it goes on to say:

12 "There was no assessment in the file or means to
13 clarify whether information regarding his partner was
14 checked or provided again."

15 She says:

16 "It is probable that he may have been concerned
17 about his application as a single male."

18 A. (Witness nods)

19 Q. I don't know whether you've been able to find out any
20 more information about that original assessment?

21 A. My recollection from the files that I have read are that
22 that was taken as read. There were no references or
23 contacts made with the partner that was suggested by
24 Mr Martin. And that would seem to be a significant
25 omission.

1 Q. Then it goes on to talk about -- at paragraph 4.3 --
2 'Anthony' having recently moved to Martin's care, spent
3 Christmas with him in Ireland, and then there's an issue
4 that Mr Martin raises about 'Anthony's' behaviour at
5 Christmas.
6 Then it says:
7 "There was no evidence of checks on the address they
8 were to stay at. A home visit followed the trip from
9 'Anthony's' social worker. In 1997 it would transpire
10 during the second assessment that no police checks on
11 the Ireland and USA addresses were then undertaken by
12 the then assessing social worker ..."
13 In terms of the Ireland address, I think that seemed
14 to be where Mr Martin was going back to for the
15 holidays, where his family came from?
16 A. Yes, I think that's the family home, his family home.
17 And from my reading of the file, I would say that that
18 was correct in relation to that address.
19 I have seen on record -- that's a file that hasn't
20 been available to the Inquiry -- communication and
21 correspondence between the social work services at the
22 time and the organisation in America that Mr Martin was
23 working for.
24 Q. Okay, so --
25 LADY SMITH: Jacquie, if I can just take you back to the

1 matter of Mr Martin's partner or what he said about
2 having a partner who was working in Australia at the
3 time of his assessment, would I be right in thinking
4 that actually enquiries about that partner should have
5 been made because you'd have to allow for the fact that
6 that partner could return and become part of the
7 household at any time?

8 A. Yes, my Lady, and from the files that I've read there
9 was an indication in the assessment process that
10 Mr Martin intended to marry that partner and that there
11 would be a joint commitment to fostering in the future,
12 so that made it even more important to have
13 an engagement with that individual concerned.

14 LADY SMITH: But everything proceeded on the basis of his
15 hearsay?

16 A. Mm-hmm.

17 LADY SMITH: With no other enquiries about that person being
18 made?

19 A. It seems so.

20 LADY SMITH: Thank you.

21 MS INNES: You mentioned the USA address and I think we
22 know, certainly, that the applicant 'Anthony' went to
23 the United States with Mr Martin on at least one
24 occasion and he seemed to be working in a camp, I think,
25 perhaps for children who were blind?

1 A. Yes, I think there may be two organisations involved.
2 One was like a Camp America, which is out-of-school
3 arrangements for young people, and the other -- you
4 know, for more general provision and the other
5 specifically focused on children with visual impairment
6 at that time.

7 And my understanding is that the young people that
8 accompanied Mr Martin were also given a role -- a caring
9 role and a support role within the organisations that
10 they were moving to -- travelling to take part in.

11 Q. At the top of page 6 at paragraph 4.5 it refers to
12 Mr Martin reporting that a pickpocket had stolen £300
13 from him after withdrawing this from his bank. He
14 claimed financial assistance.

15 A. Mm-hmm.

16 Q. That's commented on I think again in the report, some
17 financial issues?

18 A. Yes.

19 Q. What impression do you have of that, that the department
20 seemed to be helping him out in relation to these
21 matters?

22 A. Yes, I think there are a number of occasions where that
23 occurred. This occasion just prior to travelling to
24 Ireland. Other occasions where young people in his care
25 may have destroyed possessions or -- he did seem to be

1 the victim or claim to be the victim of a number of
2 thefts from his wallet or his finances throughout the
3 years.

4 Q. Okay. We know from Mr Martin's own evidence that he --
5 well, he told us that he was taking illegal substances
6 during the time that he was a foster carer. He said
7 that in the context of him saying that he was struggling
8 to cope and that was one of the things that he did. Was
9 there any sign of that on the file? Is that something
10 that you were aware of?

11 A. I haven't seen any references to that other than
12 an acknowledgement that some of the young people who may
13 have been in his care at that time were using cannabis
14 and he was very clearly indicating that that's not
15 something that would happen within his household.

16 Q. Okay. If we scroll down this page to paragraph 5.5, it
17 mentions there that two boys were frequent visitors to
18 the Martin household and regularly stayed there. And it
19 says that he outlined in the report to the psychologist
20 in 2012 that he was often caring for these boys to
21 assist their mother and they went on holiday with him to
22 the United States and to Ireland. And it notes that
23 these boys were not open cases to social work. I think
24 you're aware that these two boys were complainers in the
25 criminal --

1 A. Yes.

2 Q. -- case and he pled guilty to abusing them?

3 A. Mm-hmm.

4 Q. We also know that that abuse commenced before he became

5 a foster carer.

6 A. (Witness nods)

7 Q. In terms of the assessment process, were either of these

8 boys involved in the original assessment?

9 A. The boys were not. As far as I can see they weren't

10 spoken to or involved in the assessment process, which

11 would be unusual in terms of current practice.

12 I do know that from reading the foster care file and

13 the initial assessments that their mother was one of

14 Mr Martin's referees and so therefore she gave

15 written -- gave a written reference and that she was

16 visited by a social worker carrying out the assessment.

17 Q. Okay. If the boys were in the house a lot after

18 assessment, are you aware if the social workers became

19 aware of them being around the house?

20 A. I think there are lots of references to not only the

21 children who were placed on foster care being in and

22 around the household, there are references to other

23 visitors, which may include the two boys as mentioned

24 here, and siblings of the young people who were in

25 foster care, and perhaps others. So it was to all

1 intents and purposes a very busy household with lots of
2 visitors and that was recognised throughout.

3 Q. I think sometimes there were notes in the records about
4 the social worker not really being able to speak to
5 Mr Martin because there were so many people coming and
6 going in the house.

7 A. Yes.

8 Q. If we can move on to page 7, there's a heading,
9 "Allegations of abuse", and it talks about the
10 indictment in the first part of that.

11 At paragraph 6.5 it talks about the first allegation
12 of assault, physical assault, made by a boy who was in
13 care with him. He outlined that Pol Martin had slapped
14 him twice and kicked him, and she notes there that
15 police were contacted.

16 "... he normalised the incident describing having to
17 implement a restraint and claimed the kick was playful."

18 A. Yes.

19 Q. "No police reports or information suggested that action
20 was taken by the police at the outset, or that the
21 matter was dealt with at child protection."

22 A. Mm-hmm.

23 Q. Obviously there was a reference to the police, but it
24 says there that it wasn't dealt with as a child
25 protection matter.

1 A. Yes.

2 Q. And is that an issue?

3 A. It is an issue in that the explanation provided by
4 Mr Martin seemed to have been accepted.

5 In relation to the young person that this concerns,
6 he had a very difficult and tragic history of abuse
7 within his own household and his own birth family and
8 I can see here that there -- you know, the comparison
9 between the child protection investigation taking place
10 as it relates to other individuals to this example here.
11 It was not followed through, whereas in other situations
12 for this particular young person -- because I've read
13 his file as well -- that there were child protection
14 investigations in relation to, for example, his
15 stepparent, who was alleged to have abused him. So
16 there seems to be an inconsistency here.

17 Q. Okay. Then if we move on over the page to page 8 and
18 there's a section there headed, "Overview of emerging
19 themes". At 8.1 it says:

20 "Mainstay placements were difficult to find and
21 demand for effective placements was high, particularly
22 for those individuals who presented challenging and
23 aggressive behaviour and offending. Martin was felt to
24 be providing care that impacted positively on these
25 behaviours for 'Anthony' and [the other boy that we've

1 just spoken about] who were in his care at that time.
2 The impact of this level of need for mainstay appeared
3 to compromise due diligence for approval, scrutiny and
4 application of policy and procedure."
5 A. Yes.
6 Q. So that seems to be one of the issues --
7 A. Yes.
8 Q. -- that she highlights. Is that an ongoing problem,
9 that if there are limited placements then there's
10 a desire to try and --
11 A. Yes.
12 Q. -- keep the children where they are --
13 A. Yes.
14 Q. -- even if there are issues arising?
15 A. Yes. I think in this particular case you've mentioned
16 earlier about the placement of the children before
17 approval, but the original approval was for the
18 placement of a single male child between the ages of 11
19 to 16, but we see very early on the introduction of more
20 than one young person into Mr Martin's care. So that --
21 that -- the demand, if you like, for care exceeding the
22 supply of mainstay carers at that time seems to have
23 been an issue for the social work services.
24 And that is around today, in that there are
25 occasions where foster carers may, by exception, be

1 asked to take children over and above their approval or
2 conditions that they -- approval conditions, if you
3 like, of their registration, and that may apply in
4 situations where we're looking to place siblings
5 together or just simply through the need to protect
6 children in an emergency situation.

7 Q. You mentioned about his approval being for 11 to
8 16-year-olds and I probably should have asked this when
9 I was talking about the original assessment, but we know
10 that Mr Martin was a young man himself at the time,
11 I think he was in his 20s.

12 A. (Witness nods)

13 Q. First of all, is there any particular issue about the
14 age that he was at the time and the children that he was
15 approved to take?

16 A. At that time I'm not sure what the regulations were, but
17 currently the regulations are that a foster -- you know,
18 someone can be a registered foster carer and apply to be
19 a foster carer from the age of 21 up. So in terms of
20 the age, I don't think there's an issue.

21 But in terms of the assessment and that person's
22 ability to manage young people who are close in age to
23 them, I think the interrogation of that, their
24 motivations and their ability to manage some of the
25 boundaries and be a carer for those young people rather

1 than a friend or a mate or get involved in partying or
2 whatever that might be would be something that would be
3 considered very carefully and a matter of scrutiny in
4 the assessment process.

5 Q. I think Mr Martin gave evidence that he didn't really
6 consider himself to be a parent or he wasn't able to
7 have that parental authority, that he was more of
8 a friend or that sort of relationship.

9 A. Yes.

10 Q. That would be something that ought to be interrogated at
11 the stage of assessment?

12 A. (Witness nods)

13 Q. I suppose in terms of -- if you're going to register
14 somebody, the relative age of the child that they're
15 going to take?

16 A. Yes.

17 Q. If we can move on, yes, to -- there are various issues
18 here that are highlighted and if we can look down to 8.7
19 on page 8, it talks about Martin:

20 "... controlling visits to the house by parents and
21 key workers of the charges in his care. There were
22 clear gaps in communication between services for the
23 carer and the children that created the conditions for
24 a lack of coordinated scrutiny of information or
25 incidents."

1 Again, that seems to be an issue that was picked up
2 on?

3 A. Yes.

4 Q. I think in relation to 'Anthony' there's reference in
5 this report that Mr Martin didn't like his social
6 worker, he thought she was interfering and wanted her to
7 come less?

8 A. That's certainly -- yeah, that's something that I would
9 understand from reading the information I have
10 available, that in some instances he was encouraging
11 parents to be in and around his household over and above
12 what might be considered to be appropriate or in
13 agreement with the social worker concerned, and in other
14 instances, such as this, he was keen to exclude people
15 from being in his household or having access to the
16 young person.

17 Q. And also the issue of communication between services for
18 the carer and the children is highlighted here.

19 A. Yes, that -- yes. There was a complexity in relation to
20 this case because Mr Martin was also employed as
21 a sessional worker.

22 Q. Yes.

23 A. So as a sessional worker he was working in a direct
24 one-to-one capacity with challenging young people and
25 some of that was also overnight involvement or evening

1 work and that was beginning to cause an issue for his
2 ability to attend to his foster care duties as fully as
3 he might. So there was a tension between his role as
4 a sessional worker and his role as a foster carer.

5 Also that I think what this relates to is the
6 information that was available to his support worker,
7 because he had a support worker, as a foster carer and
8 the information as held with the social workers who were
9 responsible for the children in his care.

10 LADY SMITH: Jacquie, can you tell me a bit more about
11 what's involved in being a sessional worker?

12 A. Yes, I think it was very much about addressing the needs
13 of young people who perhaps were disengaged from school,
14 not attending school, getting involved in offending,
15 not -- you know, without meaningful social outlets, so
16 it was very much about getting involved almost like
17 a kind of youth work role, but targeting young people
18 for whom the social work service had concerns. That's
19 my understanding of the role.

20 LADY SMITH: That's a very high-level description. It
21 doesn't tell me what actually Pol Martin would have been
22 doing.

23 A. He would do ... I don't -- I can only give you some
24 insights into that from what I've read in order to
25 answer your question accurately, so that may be about

1 attending leisure facilities, sports facilities,
2 engaging young people in some of those activities, youth
3 work activities and he had a skill in that area, because
4 of his expertise of working in outdoor education centres
5 so some of that may have been hill walking, things to
6 keep young people interested, engaged and busy.

7 LADY SMITH: So he'd be booked for perhaps an hour's session
8 or it could be half a day and particular young people
9 would be allocated to him?

10 A. Yes.

11 LADY SMITH: You also mentioned they might have to stay
12 overnight?

13 A. I think -- I'm not certain about overnights, but
14 certainly evening work and what I would call nighttime
15 work, yeah.

16 LADY SMITH: Thank you.

17 MS INNES: Was he employed by the Local Authority to do
18 that?

19 A. Yes.

20 Q. Okay. I think 'Anthony' had the impression that
21 Mr Martin was very friendly I think with some of the
22 social workers. Did you have that impression from the
23 files or not?

24 A. That's not the impression that I would take from the
25 files, because it's difficult to gauge friendliness from

1 a written document. My impression would be that his
2 explanations would be taken at face value. That there
3 was perhaps a reluctance to probe into some of his
4 explanations for certain events, which on the face of it
5 were quite concerning. So whether that amounts to
6 friendliness or collusion or taking his accounts at face
7 value I'm not sure, but there was certainly -- and that
8 was actually more than one person. It wasn't a single
9 member of staff. His view of situations was certainly
10 clearly expressed and accepted in many situations.

11 Q. In the next section of the report the writer looks at
12 the period 1995 to 1997. If we can move on to page 10,
13 please, at paragraph 9.2 it highlights there the issue
14 about number of placements that you've already
15 mentioned.

16 "On 12 January 1995 he was approved to take two
17 placements at his fostering panel, despite having had
18 two placements since [REDACTED] 1994.

19 This approval was given against a backdrop of
20 stress, inability to cope, violent incidents and
21 financial hardship. The support of the team around him
22 and the reduction of sessional work must have
23 contributed to the decision taken at the panel, however
24 in the absence of minutes or reports, this is
25 an assumption ..."

1 Just before I asked that, I noticed when I was
2 reading that that at paragraph 9.1 it refers to him
3 doing sessional work that now included overnight stays.
4 A. Yes.
5 Q. So that seemed to have been ongoing. This is obviously
6 based on the documents that the writer had at the time.
7 From the files that you've obtained more recently, are
8 you able to shed any more light on why it was that he
9 was approved when there were issues going on in the
10 background?
11 A. Yeah, I -- to be able to answer that in detail I would
12 like -- you know, I would need to go back and read those
13 documents again. However, it does seem that the full
14 picture of what was happening within his household was
15 not being presented in the fashion you might expect to
16 the fostering panel.
17 Q. Okay.
18 A. Or if it was being presented, it was being presented
19 with a rationale.
20 Q. Okay. She says there that part of the rationale might
21 be the support of the team around him, he's going to
22 reduce his sessional work, that will reduce the stress
23 and this will help him.
24 A. Yes.
25 Q. I see.

1 If we can move on to the next page, which is --
2 sorry, just bear with me a moment. (Pause)
3 If we move, yes, to the top of the next page,
4 page 11, at 10.4, so by April 1995 it says:
5 "... Mainstay social workers were seeking to have
6 his role as a carer reviewed."
7 The next entry is:
8 "On 26 May, Geoff Pearce responded to a letter from
9 Betty Bridgeford ..."
10 Who I think had a senior role in the social work
11 department at the time?
12 A. Yes, she did.
13 Q. "... who had received a complaint from an MP. Pearce
14 suggested in his written response that there were
15 opposing views about the placement [of the young person
16 who had made the allegation of assault that we've
17 already talked about] with Martin. One was that the
18 placement was serving the boy well, whereas the other
19 raised concerns about the child protection registration
20 as a result of the assault by Martin."
21 A. Yes.
22 Q. "Pearce claimed that this incident had raised awareness
23 for workers and the placement was to continue with
24 support."
25 Then at paragraph 10.6 she says:

1 "Bill Frew [who is another person within the
2 department] directed that his mainstay role was to be
3 reviewed with no further placements until he was
4 assessed. Frew believed that an assault on the boy did
5 occur."

6 A. Yes.

7 Q. Are you able to tell us a bit about that period and this
8 issue about re-assessment?

9 A. I understand the circumstances that was leading to this
10 was this incongruous situation where you had a young
11 person placed with a foster carer and he had -- he was
12 registered on what would be the child protection
13 register at that time under the category of emotional
14 abuse as a result of his experiences at home. And when
15 the case conference considered all of the information
16 relating to this matter, they extended the registration
17 to include the category of physical abuse, because they
18 felt that he was at risk of physical abuse within his
19 foster care setting. So that was quite a difficult set
20 of circumstances to manage.

21 And all of this communication relates to that.

22 Q. Right, okay.

23 A. So it's an urgent review of his circumstances because of
24 that -- that decision by the case conference.

25 Q. Okay. It seems to be that Mr Martin was unhappy about

1 this to the extent that he wrote to his MP about it?

2 A. Yes.

3 Q. It's referred to again at paragraph 11.1, and it notes

4 that this was a re-assessment following an assault

5 against the boy in Nairn, I think they'd been away at

6 a caravan.

7 A. Mm-hmm.

8 Q. "This was a clear challenge for social work on the basis

9 that the placement offered by Martin was very good for

10 boys facing challenges in their care and yet the boy had

11 been assaulted."

12 So I think at this point there was an admitted

13 assault on this boy?

14 A. Yes.

15 Q. So there was the earlier allegation that we saw in the

16 earlier period.

17 A. Mm-hmm.

18 Q. And then when we move into this period there was

19 an assault which Mr Martin admitted?

20 A. My understanding in this case -- in this particular

21 incident, he actually contacted the social work service

22 to self-refer himself after the incident. I think

23 that's what this one relates to, from my recollection.

24 LADY SMITH: Social work services did not report it on to

25 the police; is that right? At that time?

1 (Pause)

2 MS INNES: I think there was an attempt to report it,
3 my Lady. If we move on to page 14. In this section
4 it's talking about various matters --

5 LADY SMITH: Which paragraph?

6 MS INNES: Paragraph 14.17, there was a call by Mr Martin to
7 Geoff Pearce to advise that the boy had run off because
8 he was upset at rejection by his mother.

9 A. Yes.

10 LADY SMITH: Yes.

11 MS INNES: There was an agreement that the matter needed to
12 be referred to the police. The boy didn't want the
13 police involved. Geoff Pearce interviewed Martin, who
14 admitted that he had slapped the boy and then drove the
15 boy to the police station in Nairn but the boy refused
16 to make a complaint or go inside.

17 A. Mm.

18 MS INNES: "Martin said they started to drive home but made
19 up on the way and returned to Nairn to complete their
20 holiday."

21 That seems to be Mr Martin taking the boy to the
22 police station, not the social worker, because they were
23 away at that point?

24 A. Yes.

25 LADY SMITH: And the social workers had heard the

1 admission --

2 MS INNES: Yes.

3 LADY SMITH: -- from Martin, but didn't report it?

4 A. That's an interesting observation. Thank you.

5 I do know from reading this report that the young

6 person himself found this a difficult matter and did not

7 wish to make a complaint to the police, so it would have

8 been very difficult for him to go on to make further

9 disclosure or to discuss that in any detail, so that

10 would have been a stumbling block there.

11 LADY SMITH: Well, it all depends how the police get on.

12 It's not for social work to second guess.

13 A. Yes.

14 LADY SMITH: Whether the police consider, on the evidence

15 they have, that they ought to take it further. Or even

16 just record it in the information that the chief

17 constables keep.

18 A. Yes.

19 LADY SMITH: Which is really important, as you'll know, for

20 example in enhanced disclosure purposes.

21 A. Absolutely. But again I think what's missing here is

22 that rigour and consistency of approach.

23 LADY SMITH: Yes. It's very fair of you to say that. Thank

24 you, Jacquie.

25 MS INNES: I think it goes on from there to talk about

1 various things that happened. Again it's mentioning
2 that Bill Frew said that the care was to be reviewed.
3 At paragraph 14.22 it says:

4 "It was agreed that the boy should continue to
5 reside with Martin but Bill Frew would be visiting
6 Martin to make it perfectly clear about the expectations
7 of the department. No further placements until
8 re-assessment."

9 Then there's reference to awaiting the police
10 decision, which occurred in the Grampian policing area.

11 14.23, there's reference to a visit with Martin.

12 Then at 14.24 there's reference to a child
13 protection case conference, where it says:

14 "Martin and the boy did not challenge the version of
15 events provided. Martin stated that the boy's behaviour
16 had been perfect. The social worker felt the
17 relationship and placement had been positive for the
18 boy. Martin apologised for hitting the boy and reported
19 to be taking stress management and hypnotherapy classes.
20 The decisions taken included a referral to Dr Field to
21 look at strategies for managing conflict, and the social
22 worker was to be more involved."

23 Was it perhaps at that stage that this
24 registration --

25 A. Yes.

1 Q. So at the child protection case conference, the boy
2 would then be registered as being at risk of physical
3 abuse?
4 A. Yes.
5 Q. But the outcome of the case conference was that,
6 nonetheless, he was to stay with Mr Martin?
7 A. Yes.
8 MS INNES: I see.
9 Right, my Lady, it's just after 11.30.
10 LADY SMITH: Yes, would that be a good place to break?
11 If that would work for you, Jacquie, we'll take the
12 morning break just now and I'll sit again in about
13 15 minutes.
14 Thank you very much.
15 (11.33 am)
16 (A short break)
17 (11.51 am)
18 LADY SMITH: Are you ready for us to carry on, Jacquie?
19 A. Yes, thanks very much, my Lady.
20 LADY SMITH: Thank you.
21 Ms Innes.
22 MS INNES: Thank you, my Lady.
23 If we can go back to PKC-000000180 and to page 15
24 and the section numbered 16 on the page, "Overview", it
25 talks first of all at paragraph 16.1 about Martin being

1 "... willing to challenge social work and assert his
2 position ... he shows an angry side, not previously
3 shown".

4 Then it says:

5 "He has missed his child protection training to
6 support [the boy we've been talking about] so will have
7 an excuse for taking this stance that isn't challenged."

8 I'm not sure I fully understand that.

9 A. Obviously Mrs Conway's written this report, but my take
10 on that would be that there were a number of occasions
11 where Mr Martin did not attend particular support groups
12 or training and this was another instance of that. So
13 if he was challenged on that, in terms of his uptake of
14 training, he had a reasonable excuse for that.

15 Q. That was because he was busy doing other work for the
16 Local Authority?

17 A. Yes.

18 Q. Yes. Then at 16.2 she says:

19 "Apart from what is stated as a complaint against
20 Martin by the boy, language such as saying 'he loved
21 him' and 'they made up' and the boy 'begging to be
22 allowed to return' to Martin do seem to ring
23 an unhealthy alarm bell about this relationship, which
24 did not appear to inform decisions but instead seemed to
25 reinforce it as productive. This grooming was being

1 carried out under the noses of the workers in this
2 situation and they have not been able to recognise that
3 or scrutinise it."

4 In terms of that particular issue, you know, when
5 sort of red flags or alarm bells should be raised, how
6 do you make sure that staff can see these warning signs
7 and act on them appropriately?

8 A. I think in terms of this particular paragraph and the
9 issues that it raises is around the understanding of
10 sexual abuse, sexual exploitation and the grooming
11 process. And back in the 1990s I would suggest that
12 that was something that had not come to the fore in
13 social work practice at that time. It would be
14 something that would be quite new to the staff involved.

15 And currently that's something that would be very
16 much to the front of people's thinking in understanding
17 young people's behaviour, particularly in these kind of
18 situations because where you have -- what you have here
19 is a situation where there were young boys experiencing
20 physical assaults, for example, but asking to return to
21 that household because that was where they felt cared
22 for, and using -- I think what it says here is when he
23 was asking the young boy to return, he said, "Because
24 I love you, please come back", you know, those were the
25 words that were being used, and that concern that the

1 relationship was more than the caring relationship of
2 foster carer to child in care. It was much more than
3 that. I think that's what it's alluding to.

4 So today significant training has been undertaken
5 around sexual abuse, sexual exploitation and the nature
6 of the grooming of young people, so I would expect all
7 our social work staff in children and families to have
8 a high level of awareness of these kind of -- of this
9 kind of practice.

10 Q. Looking back to that time, this is in around 1995, and
11 the convictions that we looked at of other foster carers
12 were in 1993 and 1994.

13 A. Yes.

14 Q. So the Local Authority obviously had very recent
15 experience of foster carers having been convicted for
16 sexual offences. So I'm just wondering how that fits
17 with a potential lack of awareness or challenge on the
18 part of the social workers?

19 A. Yes, I can't answer that because I don't have knowledge
20 of the training and the development opportunities that
21 were available at that point in time.

22 Q. I suppose it might highlight the importance of feeding
23 learning from circumstances --

24 A. Yes.

25 Q. -- which have given rise to convictions --

1 A. Yes.

2 Q. -- and making sure that that's passed on to staff?

3 A. Yeah. I think on that point, if we think about the two

4 cases that you raised earlier and this particular case,

5 not being able to discover in our interrogation of

6 records that there has been an internal or independent,

7 external scrutiny of these circumstances is a concern

8 and one of the reasons why we wanted to do this in this

9 particular case, because there are still lessons to be

10 learnt from this for the present day.

11 LADY SMITH: They cannot in the 1990s have been ignorant of

12 the risk of children being sexually abused in foster

13 care, can they?

14 A. I mean I do recall, my Lady -- because I'm old enough to

15 have been working around this particular time -- that

16 the concept of sexual abuse or sexual abuse of babies

17 was actually, you know, very new in the mid 1980s, so --

18 and that sense of thinking the unthinkable, because the

19 initial reaction is to deny that this is happening in

20 front of your very eyes, but that need to interrogate,

21 to be curious and to be professionally alert to those

22 risk factors, I think some of the risk factors were

23 probably not always recognised and not necessarily

24 evidence based and researched at that point in time.

25 LADY SMITH: Do you think there was something about this

1 particular young man that of itself from the way he was,
2 the sort of person he was, pulled the wool over their
3 eyes?

4 A. Yes, I do.

5 LADY SMITH: Must have been, mustn't there?

6 A. I think when you read this report and you see the number
7 of staff who were involved with him in different
8 capacities, his ability to do that was certainly quite
9 noticeable.

10 LADY SMITH: Yes.

11 Ms Innes.

12 MS INNES: Thank you, my Lady.

13 If we move a little bit further on in the report to
14 page 17 and this is moving forward in time and
15 paragraph 18.2 -- well, first of all, 18.1:

16 "In May 1996 Martin told mainstay social workers
17 that he was resigning and planning to work with
18 Barnardo's."

19 That seemed to be something that was noted in the
20 file.

21 Then at 18.2 it says:

22 "In October 1996 Martin was anxious that his review,
23 requested as a result of the assault on the boy [that
24 we've talked about] had still not been completed. Work
25 did appear to be ongoing from the files."

1 But I think in the meantime he'd had another boy
2 placed with him; is that right?

3 A. Mm-hmm.

4 Q. Again, you might have recovered more information in
5 relation to what was going on at this time?

6 A. Yeah. What I've been able to glean from the foster
7 carer files that in and around this time the Local
8 Authority had agreed to make use of the BAAF, the
9 British Association of Adoption and Fostering, Form F,
10 and the agreed policy and procedure was that all
11 registered mainstay carers would undergo a re-assessment
12 using that as a new tool.

13 So that was what was underway I think in this period
14 here and a new social worker had been allocated to carry
15 that out in conjunction with a second worker.

16 Q. Okay.

17 A. So that was under way. And I think the displeasure
18 that's being expressed here was that this was taking
19 a long time and obviously had implications for the
20 ultimate registration as a foster carer.

21 Q. Okay. Again if we move on in this period to page 20 and
22 paragraph 23.2, and this covers something that you've
23 alluded to to some extent already, about the boys coming
24 to the house. It says:

25 "Martin appear to have had quite a hold on the boys

1 in his care, many return to his home even after the
2 placements are over and those whom Martin determines
3 must leave beg to be returned to him. Given a comment
4 that [another boy, so a boy that we've not talked about
5 yet] was having contact with a previous carer was
6 described as inappropriate, it is strange that the
7 number of boys and the emotional links to Martin weren't
8 probed further, forensically considered or scrutinised."

9 So --

10 A. I think that's a fair assessment in the period 1993 to
11 1995, but during 1996 and the work that was underway to
12 complete the Form F and a re-assessment using that as
13 a tool, I can see from the records in the foster carer's
14 file that there was a great deal of exploration of many
15 of these issues, and that plus a number of other
16 concerns around his health and his honesty around that
17 ultimately led to his resignation.

18 Q. Okay. We'll come on to that a bit more in a moment. If
19 we move on to page 21 --

20 LADY SMITH: Just before we go to page 21, do you think that
21 if he had not resigned he'd have been de-registered in
22 any event?

23 A. That's a difficult thing to say. I think if he was
24 appearing before the panel now the answer would be yes.

25 LADY SMITH: Hard to say what would have happened.

1 A. It would be hard to say at that -- in terms of what the
2 decision might have been back in 1996/1997.

3 LADY SMITH: To which one is tempted to say: how bad did it
4 have to get? And I'm guessing you'll say: it's hard to
5 tell.

6 A. Yes. Yeah.

7 LADY SMITH: Thank you.

8 A. However, if I may say something else?

9 LADY SMITH: Yes.

10 A. I think reading the records and the new social worker
11 who was allocated to this, who came in with fresh eyes
12 and a determination to dig deeper into these issues, is
13 to be commended in terms of the work that she did there.

14 LADY SMITH: Yes. Thank you.

15 MS INNES: If we move on to page 21 and paragraph 24.3,
16 there were allegations made by another boy who was
17 placed with Mr Martin and I think these perhaps came
18 through the boy's mother and she contacted the Daily
19 Record, I think, and I think perhaps we know from the
20 records that they tried to contact Mr Martin. They were
21 claiming there were allegations of sexual abuse at that
22 time.

23 At paragraph 24.4 she records:

24 "Martin was discussing the sexual abuse allegations
25 with his social worker and wanted to know how to be

1 a better carer. The social worker records Martin might
2 need additional intensive support to work through his
3 feelings of anger and rebuild his self-confidence
4 following these allegations."

5 We've seen reference to that during the course of
6 Mr Martin's evidence, that that record was looked at.

7 A. Mm-hmm.

8 Q. Again do you have any additional information in relation
9 to that to shed some more light on what was going on at
10 this time?

11 A. I think this relates to his opening questioning about
12 where he was going wrong and a sense that he was
13 expressing an inability to understand why these issues
14 were arising and needing support to establish better
15 boundaries. And that's what he was expressing. And
16 certainly there were indications where he was under
17 a great deal of stress personally, and these -- you
18 know, if you think of the catalogue of incidents were
19 increasing and the pressure that he was under was
20 increasing.

21 Q. If we move on to page 25, still staying with what
22 happened around this time, at paragraph 29.8, after the
23 allegations of sexual abuse had been made, the police
24 were involved. If we look at 29.7, they interviewed the
25 two boys who we know had been staying with Mr Martin

1 prior to him becoming a foster carer.

2 At 29.8:

3 "The police contacted the social worker suggesting
4 that they wouldn't be interviewing Martin. She told him
5 about this and he expressed his anger that his friends
6 [the boys] were questioned by the police. The police
7 informed Martin that the allegations made by [the boy
8 who had been in foster care] were of a sexual nature."

9 Then there was a further decision that another child
10 would be returned to Martin's care and there would be no
11 further child protection proceedings. However, it says
12 that there was still some concern around Martin and
13 Steve Mackay alleged that he hadn't given the
14 instruction to return the child. So the child had been
15 returned but then he was removed again.

16 Then it says at 29.10:

17 "It was alleged during the JII that the brothers
18 reported that Martin had testicular cancer and it was
19 stated by one of the boys that he slept in Martin's bed
20 with him any time he stayed over and there was no other
21 bed available."

22 A. Yes.

23 Q. Again these things would obviously be raising alarm
24 bells. Do you know what happened as a result of these
25 statements?

1 A. I can't answer that question in terms of the actions
2 that were taken at that point in time without further
3 opportunity to read the records. However, I do know
4 that the issues around sleeping arrangements and some
5 issues around nakedness and clothing were all matters
6 that were raised within the Form F assessment and in
7 discussion with Mr Martin.

8 Q. Okay. If we go over the page to page 26 and
9 paragraph 31.3, she notes there:

10 "Concerning responses to sexual contact were
11 evident."

12 There's something -- an issue in relation to other
13 boys. And then it says:

14 "There was almost no reaction to the boy stating
15 that he frequently shared a bed with Martin."

16 But I don't know if -- from the additional files
17 that you've found, is that something that was then
18 looked at in the context of that re-assessment?

19 A. I think -- I think it's fair to say that up until this
20 point the significance of having two other youngsters
21 staying over frequently in the household were overlooked
22 and that they were not a matter for enquiry and that we
23 see that it wasn't until the police investigation -- as
24 you referred to earlier -- where those young boys were
25 actually interviewed about their experiences within the

1 household.

2 So up until that point it was understood, it was
3 known, but the significance I think had not been really
4 considered in detail.

5 Q. Then it says at paragraph 31.4:

6 "There were facts given regarding Martin having
7 cancer but little evidence that this was being checked.
8 Martin began to introduce that he was undergoing medical
9 investigations."

10 I think the writer suggests that he was creating
11 a story around what the brothers had disclosed in their
12 interview.

13 A. Yes.

14 Q. I think she's saying it was a story, because she then --
15 did she have information about the medical information
16 given to the panel in the re-assessment?

17 A. I can provide you with some more information on that if
18 that's helpful?

19 Q. Yes.

20 A. What that relates to is the information that had been
21 given in the police interview of these two young boys
22 who were not in foster care, and if you think about the
23 questioning that might have been around sleeping in
24 someone's bed or sexual contact or physical contact of
25 a sexual nature, these boys have -- or one of them has

1 indicated that Mr Martin is indicating or has indicated
2 to them that he has testicular cancer or has had cancer,
3 so there's obviously some discussion around genitalia
4 and those matters.

5 That became a question for the social workers to
6 actually establish whether that was true or not, and
7 there was also references in the records to Mr Martin
8 having indicated that he'd had cancer of the stomach
9 lining before he came to Scotland from Ireland. And
10 that was all considered and discussed with him and
11 became another area of contention between the social
12 work services and Mr Martin, and reported to the -- in
13 the Form F and would be -- have formed part of the
14 report going to the fostering and permanence panel.

15 The medical adviser to the panel confirmed
16 categorically that Mr Martin had not undergone any
17 investigations or treatment for cancer of -- in any
18 sort, and there's written evidence of that.

19 And there's also the report to the panel is that in
20 the medical adviser's view, she could not support his
21 re-registration until he underwent a full health
22 assessment from his general practitioner.

23 So there's an indication here that some of this may
24 be fabricated and not corroborated by medical evidence,
25 and that was initiated from the investigation that was

1 carried out by the police, so the evidence given by the
2 two young people.

3 Q. Did Mr Martin agree to undergo that additional medical
4 or not?

5 A. No. He resigned beforehand. It was a matter of great
6 frustration for him.

7 Q. If we can look on, please, to page 29, paragraph 35.6.
8 The writer refers to a paper which was published by
9 Mr Martin about foster care and she says:

10 "This paper was peppered with inaccuracies in
11 respect of his foster caring experience and what we now
12 know of his home life."

13 Then he talks about his journey into foster care and
14 that he claimed he was a qualified social worker as
15 well.

16 I think you've seen that article?

17 A. I haven't read the article --

18 Q. Okay.

19 A. -- but I have investigated to see whether it's still
20 retrievable from certain academic sources and
21 I understand that Mrs Conway did.

22 Q. Okay. I think if we go on to page 30 and
23 paragraph 39.2, she says there:

24 "The inconsistencies were beginning to be more
25 frequent and suggest that Martin was losing focus as

1 errors were highlighted. The most worrying of these was
2 the litany of fabrication within his published paper."

3 She seems to have --

4 A. Formed a view --

5 Q. -- formed a view about that.

6 Then at 39.3 she says:

7 "The assessment process was underway and there was
8 a level of resistance from Martin to undergo a medical.
9 There was an inevitability to his resignation that
10 stemmed from a greater level of scrutiny that was
11 beginning to emerge as normal."

12 A. Yes.

13 Q. I think she's maybe saying he was beginning to realise
14 that there would be more scrutiny than there had been
15 before?

16 A. Yes.

17 Q. Okay. I just want to make sure that we've covered all
18 of the points that you've drawn out from this review and
19 if we can look, please, at PKC-000000189, which is
20 a summary of some points, I think, that you have drawn
21 out following the discovery of the additional files.

22 If we look down to the bullet points, so there's
23 additional information and I suppose the first issues
24 are positives.

25 A. Yes.

1 Q. So in general there was more going on in terms of
2 re-assessment than might have appeared from the files
3 that we had previously?

4 A. Yes.

5 Q. Then you say that there were a number of themes that
6 cement your previous concerns, and so first of all:
7 "Material which evidences that those involved were
8 struggling to address concerning behaviour ..."

9 A. Yes.

10 Q. You've highlighted some of those already.
11 The second one is in relation to the family friends
12 who you've talked about.
13 Then the next point:
14 "His approach was to paint himself as being at risk
15 and struggling, which staff appear to have bought into."

16 A. Yes.

17 Q. Can you tell us a bit about that?

18 A. I think on reading the records and the way in which he
19 presented the situation was almost that he was at risk
20 of allegation because of the lack of boundaries that
21 were around and that he didn't know what to do about
22 that. And that my assessment of reading some of the
23 records of meetings were that that was accepted at face
24 value. And so therefore Mr Martin's struggles became
25 the focus of the discussion rather than what was

1 happening with the children.

2 Q. Then the next bullet point refers to the Form F and the

3 fresh eyes --

4 A. Yes.

5 Q. -- introducing a greater level of rigour?

6 A. Yes.

7 Q. Then the final bullet point talks about the issue of

8 health, which you've mentioned?

9 A. Mm-hmm.

10 Q. Then over the page you mention the issue about them

11 seeing Mr Martin placing himself at risk of allegations.

12 A. Yes.

13 Q. Then the next bullet point is that looking at the young

14 people's experience, you refer to various issues that

15 come through as leading up to and being integral to

16 abuse: being given alcohol, I think you mentioned in

17 your evidence earlier cannabis potentially?

18 A. Yes.

19 Q. Doubtful boundaries about nakedness and sleep

20 arrangements, large number of visitors, dishonesty, sex

21 talk. All of that is set out in the records that you've

22 looked at?

23 A. Yes.

24 Q. I suppose you would say that those patterns of behaviour

25 should have been seen for what they were at the time?

1 A. Yes.

2 I think on reflection it took some time for people
3 to stand back and see that whole picture, whereas if you
4 think about current practice, where it's very much about
5 keeping a chronology of events and an overview and where
6 we have a series of allegations and complaints being
7 made against one foster carer, that all of those would
8 be considered, followed through and reported back to the
9 panel and not seeing that necessarily in this case.

10 Q. Okay. You say in the final bullet point that you're
11 surprised that it didn't lead to a review of some
12 sort --

13 A. Yes.

14 Q. -- on that point of conviction, there should have
15 been -- and as you've already said you want to learn the
16 lessons from this case. So having undertaken the review
17 and reviewed the additional files that you found, what's
18 your plan in terms of learning from this?

19 A. Yes, thank you. In terms of a plan, I think there's
20 still some gaps that we need to address. So we've found
21 the foster carer's files, I've read them in advance of
22 coming here to give evidence, but a further analysis of
23 that would be required in order to give the full picture
24 here.

25 I believe that there is merit in undertaking

1 a learning exercise around this involving a whole range
2 of staff, not just those that are involved in family
3 placement but those involved in child protection and
4 using this, although it's a historical case, to actually
5 explore the deficiencies in practice in this time,
6 consider what needs to be done in the present time and
7 re-evaluate our processes and practices and approaches
8 in the current day.

9 So I've already spoken to the chair of the Child
10 Protection Committee, for example, and the chair of our
11 chief officer's group for public protection for support
12 to enable that to happen, so that's certainly something
13 that we would want to take forward. But very much in
14 the early days of planning that.

15 Q. I want to move on to some other matters now, so
16 I mentioned earlier that there were four convictions,
17 we've looked at three of them. The final one is at
18 JUS-000000090, which we can see that this is the
19 conviction of Anthony Clark. The conviction, if we
20 scroll down a little, was in December 2009 and it's two
21 charges of sexual offences, which we'll come to, and the
22 sentence was -- it's noted here, my Lady, as one year
23 imprisonment?

24 LADY SMITH: Yes.

25 MS INNES: However, that was quashed and a probation order

1 was made.

2 LADY SMITH: Thank you.

3 MS INNES: We'll come to that just for reference in

4 a moment.

5 If we look on to page 3, I think we see the charges.

6 The first charge is in respect of placing a -- of

7 taking photographs essentially of a child.

8 Then the third charge is in respect of possession of

9 photographs. And those are from 2007 to 2008.

10 And the child I think was aged 16 at the time.

11 If we look on just for completeness to page 6 --

12 sorry. Yes, it's page 4 -- we see the note of the

13 decision in the appeal. So 26 June 2010 and the

14 interlocutor starts at the bottom of the page. Then if

15 we go on to the next page Your Ladyship can see:

16 "The court, having heard the representative for the

17 appellant, sustained the appeal; quashed the extended

18 sentence of imprisonment imposed on the appellant and

19 substituted a probation order for a period of three

20 years."

21 So that was the outcome of that case.

22 In terms of this conviction, are you aware if there

23 was any review or follow up to it?

24 A. I don't think there was, no.

25 Q. Do you know why that would have been? I mean that's

1 much more recent, obviously.

2 A. The information I can give you is that I know that there
3 would have been a review of the registration of the
4 foster carers, because there's a couple involved in this
5 particular case and a report submitted to the fostering
6 and permanent panel for a decision on that.

7 On reflection, I would suggest that that's not
8 a sufficient review or report in terms of learning
9 lessons from this. And one of the things I think that
10 should happen is that where we have a conviction of
11 a foster carer, that there should automatically be
12 a review of that case, in the same way that you would
13 carry out a significant case review.

14 Q. Do you think that if you were to carry out that review
15 within the Local Authority, and obviously you could
16 share the learning of that within your own Local
17 Authority, do you think that learning from reviews like
18 that should be shared more widely?

19 A. Yes.

20 Q. How would you go about doing that?

21 A. Well, one of the ways that is carried out in relation to
22 significant case reviews that -- or initial case reviews
23 or learning reviews that are carried out under the
24 auspices of the Child Protection Committee are reported
25 to the Care Inspectorate, and they carry out an analysis

1 of those and share the key themes and learning across
2 Scotland from each of those.

3 More locally, we have very good relationships with
4 our Local Authorities that formed the Tayside region
5 before, so we would -- and currently would share
6 outcomes from a case review with our partners.
7 Understanding that Police Scotland and NHS Tayside cover
8 the whole area. So there are opportunities to do that.

9 And one of the ways that could close this circle is
10 ensuring that where a foster carer is convicted of
11 offences against children, that that would automatically
12 become -- you know, or fulfil the criteria for a review
13 and at the moment I'm not sure that it does.

14 LADY SMITH: Don't all Local Authorities have an interest in
15 knowing what each other have experienced in terms of
16 foster carers being convicted, what's been learnt --

17 A. Yes.

18 LADY SMITH: -- as a result? And maybe a way forward is to
19 find a means of sharing with each other?

20 A. Yes. Yes.

21 LADY SMITH: Just going back to Pol Martin for a moment, I'm
22 sorry, I've been mulling something over, you've
23 explained you now have a plan and you've told us what
24 that's going to involve. Do you think you'd have got to
25 that at this stage if his case had not been highlighted

1 in this Inquiry?

2 A. No, I don't think we would. And I think the opportunity

3 to continue to reflect on this and -- we remained

4 concerned that we didn't have the foster carer's file

5 and continued to search for that, but I think seeing the

6 evidence before the Inquiry, having the opportunity to

7 hear testimony and also hear -- see Mr Martin's

8 statement has encouraged me to look further into this

9 particular case.

10 LADY SMITH: Thank you very much.

11 MS INNES: Just dealing with hearing some of the evidence

12 that has been given in the course of the Inquiry, in

13 your hard copy folder at the second tab you should have

14 a table of the evidence that's been given and the

15 relevant pseudonyms of people.

16 A. Yes.

17 Q. A table there.

18 A. Yes.

19 Q. The first person that I'm going to refer to doesn't in

20 fact have a pseudonym because she waived anonymity and

21 that person is Kerry McDonald. Were you able to listen

22 to Kerry's evidence yourself?

23 A. Yes, I did.

24 Q. Okay. I am going to ask you a couple of questions about

25 her evidence, but before I do that, did you have any

1 reflections on her evidence from listening to it?

2 A. Yes. I think my reflections on listening to Kerry's
3 testimony and her experiences was, you know, it's a very
4 sobering account of difficult and traumatic experiences
5 and abusive experiences in foster care. And her
6 attempts to seek some support or to seek some action and
7 to be rescued out of what was a very difficult situation
8 went unheard. And that's an entirely unsatisfactory
9 outcome for any young person.

10 Q. I think an example of that might be at -- if we look at
11 PKC-000000163, page 7, so these are some of Kerry's
12 records that were looked at at the time that she gave
13 evidence. The first entry refers to an office visit
14 from her father and then the next paragraph refers to
15 the social worker saying:

16 "... I would phone her foster carer to tell her that
17 he hadn't been at the school, perhaps Kerry was worried
18 in case he would go. Kerry told her father that the
19 foster carer used a leather belt on her. I told the
20 foster carer that this had been proved wrong in the past
21 when Kerry had said this."

22 And then it goes on from there. So there was that
23 entry.

24 Then if we look further down the page, at
25 24 November 1987, the very last entry on the page, and

1 it says there:

2 "At about 6.15 pm Kerry arrived at the Girls'

3 Brigade company I am involved with. She said she wasn't

4 going back to the foster parents."

5 A. Yes.

6 Q. I think we see even on this page that some of the things

7 that you mentioned there, that she was seeking help, she

8 was telling her dad. She went to find the social worker

9 in her -- in the social worker's spare time,

10 essentially --

11 A. Yes.

12 Q. -- to say that she didn't want to go back to the foster

13 parents. I think you say that you recognise that that

14 went unheard.

15 A. Yes.

16 Q. Just looking at this page, I think you'll be aware that

17 Kerry asked for a copy of her records from the Local

18 Authority?

19 A. Yes.

20 Q. And she was given a copy, which was obviously redacted.

21 If we can look at WIT-3-000001293 and the first

22 page there, we can see that the part that I read out

23 about her telling her dad that she'd been hit with

24 a belt, that that's blanked out on the copy that was

25 given to Kerry.

1 A. (Witness nods)

2 Yes.

3 Q. I think there was -- again we can look at it if need be,

4 but I think you're aware that there was also a report of

5 Kerry having been to a police station, so if we go to

6 pages 4 and 5 of this document and look at the bottom of

7 page 4 and we can see that there's a whole section

8 redacted and at the top of page 5 a whole section

9 redacted.

10 A. Yes.

11 Q. Then if we go back to PKC-000000163 at page 28, so this

12 is the same page, if we look down to the bottom of the

13 page, we can see there the paragraph that was redacted

14 says:

15 "Telephoned the foster mother who eventually agreed

16 to come to the police station. She was very overbearing

17 and domineering when she first arrived. Kerry said

18 nothing for the 30 minutes or so that the foster mother

19 was with her and most of the time refused to even look

20 at her. The foster mother denied any truth in the

21 allegation of beating Kerry with a belt, although she

22 admitted to tugging her hair, clearly she finds it

23 difficult to know how best to deal with Kerry's

24 continuing pilfering and lying. The foster mother asked

25 me to leave the room for a little while and it was clear

1 when I re-entered the room that she was trying to get
2 through to Kerry by affectionate physical contact, which
3 was being rejected. In any case Kerry was then helped
4 [and it says above that 'dragged'] out of her chair and
5 out of the police station into the foster carer's car."

6 Now, all of that's been redacted on the records that
7 have been given to Kerry.

8 A. Yes.

9 Q. Obviously we understand that certain things need to be
10 redacted. The concern here is that in those parts that
11 were redacted there were reports of Kerry suffering
12 abuse or certainly information about the attitude of the
13 foster parent towards her.

14 A. Yes.

15 Q. Do you have any comment on that?

16 A. Yes. And thanks for drawing this to our attention.

17 The fact that Kerry was actually party to that
18 discussion and those events means that she should have
19 been able to have that information given to her.

20 When this was raised and noticed at the point where
21 Kerry was giving evidence to the Inquiry, we immediately
22 responded and raised that with our data protection
23 officer, so the matter has been considered with some
24 immediacy and the error appreciated and recognised.

25 So we're recognising that the entire passage that

1 you've discussed there has been removed and that's been
2 discussed with the case officer who was involved in this
3 particular case, who recognises that on reflection that
4 there has been an error here and that information should
5 have been provided.

6 I think the explanation there is that, you know,
7 this is not something that has been seen in other
8 aspects of that person's work. We've had a close look
9 at other historical records that that person has been
10 involved with and see this as a one-off event.

11 So a number of subject access requests have been
12 reviewed and the issue discussed in detail with the
13 member of staff concerned.

14 In addition, the new arrangements will include
15 a check by another officer before records are released
16 to applicants and a revisiting of training and
17 development for the staff.

18 We carried out some joint training between social
19 workers and case officers who are dealing with the
20 subject access requests some time ago, so it's likely
21 that we will revisit that because I think it's really
22 helpful to do that together to understand the
23 sensitivities involved and the nature of the work that
24 they're involved in, because I think it is very
25 sensitive material and it is very emotive in some -- in

1 many regards. So we will be taking that forward too.

2 LADY SMITH: It strikes me that there's another lesson that

3 you're probably aware of here. If you take somebody

4 like this, who's left childhood not exactly feeling

5 imbued with trust and confidence in the Local Authority,

6 or indeed authority in general --

7 A. (Witness nods)

8 LADY SMITH: -- who then in adulthood asserts a right they

9 have to see what was written about things they were

10 involved in and they're faced with parts of it being

11 withheld.

12 A. Yes.

13 LADY SMITH: That just increases the earlier feeling that

14 they can't trust this authority, they can't trust

15 generally authority, whereas the Local Authority has

16 missed an opportunity to do something to try and

17 demonstrate to them that in some respects they can be

18 trusted.

19 A. Yes. Absolutely. And that this is an opportunity for

20 people to understand their past and to understand and

21 make sense of that because they have a lot of questions

22 around that.

23 LADY SMITH: Yes.

24 A. So therefore any gap in that is not helpful to them,

25 absolutely --

1 LADY SMITH: Of course I fully appreciate SARs are hard to
2 handle and sometimes there has to be redaction, but as
3 soon as you get block redactions of paragraphs --
4 A. Yes.
5 LADY SMITH: -- it's bound to impact negatively on the
6 person requesting.
7 A. Yes, and I think we absolutely recognise that --
8 LADY SMITH: Yes.
9 A. -- and recognise the requirement for sensitive support
10 for any individual seeking information of this nature.
11 LADY SMITH: Good.
12 A. And are continually trying to improve upon that.
13 LADY SMITH: Thank you.
14 Ms Innes.
15 MS INNES: Thank you, my Lady.
16 I'd like to ask you about the evidence of another
17 applicant, who has the pseudonym 'Louise'. 'Louise'
18 gave evidence on Day 314, which was 12 August 2022, and
19 I don't think you were able to listen to 'Louise's'
20 evidence yourself?
21 A. No.
22 Q. Although I assume you've had access to or members of
23 your team have had access to her statement and perhaps
24 the transcript of her evidence?
25 A. Yes, I have, I've seen the transcript of her evidence

1 but I wasn't able to participate on that day.

2 Q. Again, just before I ask you a couple of questions about
3 her evidence, was there anything particular in relation
4 to her evidence that you noted?

5 A. Again, the evidence from 'Louise' relates to very long
6 periods of being in the care or in a household where she
7 felt different, not one of the family. The extent of
8 that -- the emotional impact of that is -- is
9 significant. She talks a lot about the impact on her
10 current lifestyle and relationships. And in this
11 situation again I think we're seeing a young person
12 whose behaviour and cries for help and seeking out
13 support is -- goes unheard.

14 Q. I think although she -- there was an issue of sexual
15 abuse by another foster child who was in the
16 household --

17 A. Yes.

18 Q. -- she also spoke about some physical abuse, but she
19 said in her evidence that it had little or she felt it
20 had little or no impact on her, that the mental or
21 emotional abuse had a much more significant impact.

22 A. (Witness nods)

23 Q. I just wanted to ask you about some issues that she
24 raised broadly in her evidence and we know that she was
25 placed with her foster carers at quite a young age and

1 there appeared to be a level of informality in terms of
2 the social worker's interactions with her, to the extent
3 that she was led to believe that the social worker was
4 a friend for a long number of years and the Local
5 Authority then started trying to impose greater
6 formality, which was resisted by the carer.

7 A. Yes.

8 Q. Do you have any comment on that?

9 A. Yes. In reading 'Louise's' statements, you know, that
10 struck -- stood out for me, and the importance of
11 separation of the support for the carer and the support
12 for the child and ensuring that the child is clear about
13 who is their worker, who is their person, who is their
14 support person, and have independent support in that.
15 That came out -- that struck me very clearly in this
16 case.

17 Q. She also talked about the number of social workers she
18 had. I think she said she had something like 19 social
19 workers?

20 A. Yes.

21 Q. And, you know, she appreciated, I think she said in her
22 evidence that people move jobs and people are ill or
23 people go on maternity leave or they retire, but one of
24 the issues that she raised was the difficulty of lack of
25 continuity, being able to build a relationship with

1 someone.

2 A. Yes.

3 Q. Is that again something that is potentially an ongoing

4 issue in social work?

5 A. It's certainly something that would be very carefully

6 considered in terms of the need for continuity,

7 stability, and for developing longstanding and trusting

8 relationships with children. And we've given a lot of

9 consideration to minimise that change and to ensure that

10 children have access to a trusted person at all times.

11 Q. Another issue that she addressed, which has similarities

12 to other matters that we've already discussed today, is

13 the level of control that her foster carer had over the

14 social workers, that she seemed to exert a lot of

15 control.

16 A. Yes. I think in this particular situation for 'Louise'

17 that's clearly there, but I think we've seen it in other

18 cases that are before the Inquiry from, you know, that

19 originate from Perth and Kinross, where there seems to

20 be, in that context and in that time, a real difficulty

21 in challenging the carers and making some difficult

22 decisions around children's future. So it's almost as

23 if those -- the carers have a right over and above the

24 child.

25 Q. Then another significant issue that she mentioned was

1 that she had little knowledge of her own family and
2 I think she discovered --
3 A. Yes.
4 Q. -- later in life that she had 13 siblings.
5 A. Yes.
6 Q. She talked about meeting two of her siblings by chance
7 in the library.
8 A. (Witness nods)
9 Q. And trying to trace and find her family she described as
10 being one of the most difficult things that she'd done.
11 A. Yeah. I think -- you know, reading 'Louise's' account
12 of her childhood and her lack of understanding and
13 knowledge about her past, her family and her life story,
14 as we might call it, is very apparent, that she goes on
15 to suffer even more loss in terms of those siblings
16 later on in life. So her account is certainly, you
17 know, full of gaps in her knowledge and loss in relation
18 to her family and a real need to seek that out.
19 Q. A statement which was read in of a person with the
20 pseudonym 'Frank', that was read in on Day 307, 12 July
21 of this year. Just in terms of his statement, I think
22 one of the significant things that comes out of his
23 statement is that he was in one placement, abuse was
24 alleged to the extent that neighbours were phoning the
25 RSSPCC --

1 A. Yes.

2 Q. He was removed from that placement, I think he went to
3 residential care for a while, and then he was returned
4 back to the foster care household and again there were
5 issues arising there.

6 A. Yes.

7 Q. Do you have any comment on the circumstances of
8 'Frank's' --

9 A. Yes, in relation to 'Frank's' case I think the severity
10 of the physical assaults and abuse that he experienced
11 is very sad to read. And one of the things that
12 I noticed in that particular case was that the -- the
13 RSPCC officer was involved and actually had come to
14 a different conclusion, I think, from the social work
15 services, so there were issues around there about
16 thresholds and what's acceptable for children and the
17 challenge around that.

18 So -- and for me, reading 'Frank's' account,
19 appreciating that what seems to be very much a sole
20 social work or social worker or sole social work service
21 dealing with what are, as I was describing, very serious
22 matters without considering that wider network around
23 the child and the neighbourhood and the concerns there.

24 So, yeah, a very sad case.

25 Q. I'm going to move to look at Part B of your response

1 finally. Just before I leave the applicants themselves,
2 I don't know if there was any other comment that you
3 wanted to make on any of the other evidence that you've
4 listened to or read?

5 A. I think it's overwhelmingly a position where children
6 are trying to tell people about the difficulties they're
7 experiencing and not being heard or the door not being
8 opened and the long-lasting effects of that and the lack
9 of trust, not only in terms of that caring relationship
10 that they had but the lack of trust in someone who was
11 actually invested with the responsibility of keeping
12 them safe.

13 Q. These are points that are as relevant today as --

14 A. Yes.

15 Q. -- they were at whatever time these applicants were in
16 care?

17 A. Yes.

18 Q. Just before I move to your Part B, I think you wanted to
19 say something about summaries that you had provided to
20 the Inquiry?

21 A. Yes.

22 Q. You provided some case summaries in respect of children
23 where you had found that abuse had been alleged?

24 A. Yes. Yes. We provided summary information on
25 a template and those have been provided to the Inquiry

1 in relation to all of those circumstances in which we
2 carried out a stage 3 in-depth review of those records.

3 On reflection, and having heard the testimony of
4 witnesses to this Inquiry and further interrogation of
5 records, and knowing that we have other information that
6 we've pulled together to prepare that, they do seem
7 rather sanitised and bereft of some of the richer
8 material that would benefit the Inquiry, so we do have
9 other records that could supplement this, but my
10 reflection is that I think some really important
11 material is perhaps not reflected in these templates
12 that have been provided to you.

13 Q. Okay.

14 Just for Your Ladyship's assistance, there are some
15 examples of these in the bundle --

16 LADY SMITH: Thank you.

17 MS INNES: -- there were 44, I think, templates, so not all
18 of them have been put into the bundle, but if we look at
19 PKC-000000084, this relates to Kerry McDonald.
20 Your Ladyship can see that this is a template with
21 various questions and answers that have been provided to
22 us by the Local Authority.

23 If we go on to, for example, page 3, we can see
24 answers to questions about over what period was the
25 abuse alleged to have taken place, what was the process

1 of investigation, and, I think, for example in Kerry's
2 case there's a lot of focus on a later complaint that
3 she made?
4 A. Yes.
5 Q. Perhaps rather than looking at some of the material that
6 we looked at during the course of Kerry's evidence?
7 A. Yes.
8 Q. And maybe that's the sort of thing that you're referring
9 to, Jacquie?
10 A. Yes.
11 Q. Okay.
12 A. And actually a bit more detail around the nature of the
13 abuse that was being experienced.
14 Q. Okay.
15 If we can look, please, at PKC-000000035, page 125,
16 this is the response in relation to the questions about
17 acknowledgement of abuse and at 3.1(a) the Local
18 Authority accepts that abuse took place and in terms of
19 the outcome of your file review, you note that there's
20 evidence of 42 children alleging abuse or having been
21 found to be abused in foster care over the relevant
22 period and you accept that it is probable that there
23 were other cases, and I think Pol Martin perhaps is --
24 and those children who were in foster care who came to
25 light during the course of the Inquiry --

1 A. Yes.

2 Q. -- would be an example of that, that you hadn't found
3 that during your own file review and it came to light
4 later.

5 A. (Witness nods)

6 Q. Equally, you accept that there may have been allegations
7 which weren't recorded or allegations weren't made at
8 the time?

9 A. Yes, or there may be no records available.

10 Q. Yes.

11 If we move on, please, to the next page, page 126
12 and question 3.2(a), the question there is:

13 "Does the Local Authority accept that its systems
14 failed to protect children over that period?"

15 There's reference to the file review. There's
16 a paragraph beginning:

17 "From the evidence available, it is our belief that
18 the organisation was at the forefront of new thinking in
19 respect of care models and practice. This included in
20 some instances influencing changes in legislation and
21 national policy and this work has been guided by sound
22 research and appropriate national reports. There is
23 evidence that such changes have been incremental and
24 sustained. Within this context, there is no evidence of
25 systemic failures or systems failures within the

1 establishment or organisation. The instances where the
2 abuse of children has been reported or recorded relate
3 to the unacceptable and abhorrent behaviours of
4 individuals who abused their position as trusted adults
5 and employees of the organisation. Although this is
6 a significant proportion of children, there is no
7 evidence that this was as a result of systemic failings
8 or systems failures."

9 I wonder if, having reflected further, that's still
10 your position or do you have a different view?

11 A. On reflection, I think my personal and professional view
12 would be that, having considered the prevalence and the
13 individual testimonies around that failure to be heard,
14 that failure to respond and the failure to act to remove
15 that abuse, in many instances would suggest that the
16 failure to protect a significant proportion of children
17 in foster care, my assessment would be that that is
18 a systemic failing.

19 Q. Then in terms of responses to abuse at page 128 and
20 paragraph 3.3(a), you're being asked to address the
21 question of whether the Local Authority accepts that
22 there were failures or deficiencies in its response to
23 abuse. The second paragraph there says:

24 "Looking back, children in foster care prior to
25 these developments lacked access to levels of

1 independent support ..."

2 A. Yes.

3 Q. "It is highly probable that there were instances where

4 children experienced abuse and this went unreported or

5 unnoticed."

6 You had noted from your review that the response did

7 not seem to consider fully the risks associated with

8 continuing with the placement, which was the most common

9 outcome.

10 A. Yes.

11 Q. Am I right in saying that it is accepted that there were

12 failures and deficiencies in response to abuse?

13 A. Yes.

14 Q. I think we've seen some examples of that --

15 A. Yes.

16 Q. -- in the case of Pol Martin, the review that you've

17 provided to us.

18 A. (Witness nods)

19 Q. Beyond what we've spoken about today, is there anything

20 else that I've not covered that you wanted to highlight

21 in terms of, for example, lessons to be learned, changes

22 to be made?

23 A. I've got a number of things, but I would like to just

24 highlight a few for you.

25 I think one of the questions that has arisen for me

1 is around the deep exploration of the motivation to
2 become a foster carer, because I think over time in the
3 examples that we've considered in detail you see
4 a motivation sometimes for financial gain and that comes
5 through in some of the witness statements as well, that
6 that's how it felt to them too. So that need for a very
7 rigorous assessment and deeper exploration of the
8 motivation to become a foster carer I think is a key
9 lesson.

10 And that I think on reflection from some of the
11 witness statements to the Inquiry you can see that very
12 early on in a placement these children -- these adults
13 who were children at the time are reflecting that they
14 felt that something wasn't right and they began to
15 experience abuse very early on in placement. It wasn't
16 something that came out in a number of years. It was
17 almost immediately. So that very risky period at that
18 early stage of a placement and the extent to which that
19 placement is supported and the child observed and has
20 access to a trusted adult they can speak to at that very
21 early stage I think is crucial. So some reflection on
22 that about our practices at that very early stage of
23 placement.

24 And that separation of support that I mentioned
25 earlier, so I won't go into that in any more detail.

1 I think also there's a common theme coming through
2 that the behaviour which demonstrates children's
3 distress can be misconstrued and you see in a lot of
4 these cases children talking about bed-wetting and what
5 that would mean for them.

6 Q. Yes.

7 A. So -- and I think that tendency to very quickly decide
8 on a course of action, which was that -- to quickly and
9 unilaterally as a service decide that what was being
10 said was unsubstantiated and for no further action to be
11 taken, I think that's a key lesson as well.

12 So the importance of independence in decision making
13 and we spoke about the role of the fostering and
14 permanence panel, but that role of independence of -- to
15 challenge both for foster carers but also reviewing the
16 child's placement and the regularity of that I think is
17 key.

18 Q. Okay.

19 A. And training and development and knowledge and
20 understanding of staff.

21 And I think we also, from a Perth and Kinross
22 perspective, have learned some significant lessons
23 around our recording practices where we found
24 significant gaps.

25 Q. Yes.

1 A. And I think we've already spoken about the importance of
2 supporting adults to access their records.

3 Q. Yes.

4 A. Historical records, and the sensitivities around that,
5 so that's a major lesson for us too.

6 And the child's voice and ensuring that the child's
7 voice is at the centre of all decision-making and that
8 they have a trusted adult.

9 And also I think there are a number of instances as
10 we've gone through the evidence today where we see the
11 family raising concerns about their child in foster
12 placement, so ensuring the family voice is heard too.

13 Q. Yes.

14 A. And the lessons from the Pol Martin case and encouraging
15 and supporting staff to think the unthinkable and to
16 actually explore that in depth and be supported to do
17 that through strong supervision and strong team work.

18 Recruitment. Recruiting the right people to become
19 foster carers, but recruitment of the right people to
20 develop an expertise in this particular area. And so
21 it's about bringing the right people into that caring
22 role, but the right people into that supervisory --

23 Q. As well.

24 A. -- and social work role as well.

25 And I think there are some parallels to be drawn

1 from the lessons in relation to foster care and to
2 private fostering arrangements, as we saw earlier in
3 relation to the case of Richard Clark, and kinship care,
4 because the same lessons apply.

5 Thank you.

6 MS INNES: Thank you very much for your evidence, Jacquie.

7 I have no questions.

8 There are no applications, my Lady.

9 LADY SMITH: Are there any outstanding applications for
10 questions?

11 Jacquie, that completes everything we have for you.
12 Thank you so much for all that you and your authority
13 have contributed to our work here. You've presented us
14 with a really full and thorough volume now of everything
15 that you have to assist and I'm really grateful to you
16 for that, but also for coming here to be prepared to be
17 probed a bit and discuss so openly this morning how you
18 see these events of the past, looking at them through
19 a 2022 eye. That's really helpful to me.

20 Thank you for that and I'm now able to let you go
21 and hopefully have a more relaxing time for the rest of
22 today.

23 A. Thank you, my Lady.

24 LADY SMITH: Thank you.

25 (The witness withdrew)

1 LADY SMITH: I'll rise now for the lunch break and we'll sit
2 again at 2 o'clock for Borders Council.
3 Thank you.
4 (1.05 pm)
5 (The luncheon adjournment)
6 (2.00 pm)
7 LADY SMITH: Good afternoon.
8 We turn now, as I said earlier, to Scottish Borders
9 Council. I'm told our witness is ready, Ms Innes.
10 MS INNES: Yes, my Lady, the next witness is
11 Stuart Easingwood.
12 LADY SMITH: Thank you.
13 Stuart Easingwood (affirmed)
14 LADY SMITH: We do need you to use the microphone, because
15 we listen to you through the sound system.
16 A. Okay.
17 LADY SMITH: If you could see that you do that.
18 Help me with this, how would you like me to address
19 you? I'm happy to use Mr Easingwood or your first name
20 if you're more comfortable with that?
21 A. My first name, please, that would be preferable, thank
22 you.
23 LADY SMITH: Stuart, I see you've obviously got notes with
24 you on your iPad there, but the documents that you've
25 helped us with are also in the red folder and we'll

1 bring documents up on screen as we go through your
2 evidence.
3 A. Sure.
4 LADY SMITH: So you might find that useful too.
5 A. No problem.
6 LADY SMITH: If you have any questions at any point or if
7 you're not sure what's going on do speak up and we'll do
8 what we can to help you or if there's any other way
9 I can help you give your evidence as clearly and
10 comfortably as you can let me know.
11 I normally take a break in about an hour from now,
12 and I'll do that if that works for you?
13 A. (Witness nods)
14 LADY SMITH: But if you want a break at any other point just
15 say, all right?
16 A. No problem, thank you.
17 LADY SMITH: Ms Innes, when you're ready.
18 MS INNES: Thank you, my Lady.
19 Questions from Ms Innes
20 MS INNES: Stuart, can I start by asking you your date of
21 birth?
22 A. [REDACTED] 73.
23 Q. You've provided the Inquiry with a copy of your CV,
24 which you'll find in the red folder in front of you.
25 You tell us there that you qualified I think as a social

1 worker in 2001; is that right?

2 A. That's correct, yes.

3 Q. Prior to that we can see from your CV that you'd worked

4 in part-time roles supporting young people?

5 A. That's correct.

6 Q. Then from 2002 to 2004 you worked with the City of

7 Edinburgh Council in a residential school?

8 A. That's correct.

9 Q. Then you moved to East Lothian where you worked from

10 2002 to 2016, and you were involved in all social work

11 functions at that point, you say you spent some of that

12 time based in a school in East Lothian?

13 A. That's correct.

14 Q. Then in February 2006 you moved to Scottish Borders

15 Council?

16 A. Yes.

17 Q. And you have remained there since, obviously in

18 different roles?

19 A. (Witness nods)

20 Q. You started as a senior social worker?

21 A. (Witness nods)

22 Q. And you worked in Children and Families --

23 A. That's correct, yes.

24 Q. -- at that time?

25 Then in 2009 you became a social work team leader?

1 A. (Witness nods)

2 Q. And that was still in the area of Children and Families?

3 A. Correct, yes.

4 Q. Then in August 2014 you became a Locality Manager?

5 A. Yes.

6 Q. That suggests that you were responsible for various

7 areas, I think, in the Borders at that time --

8 A. Yes, that's correct.

9 Q. Again you were dealing with children and families as

10 well as provision for children with additional support

11 needs?

12 A. That's correct.

13 Q. Then you became a group manager and it says Central, so

14 is that another sort of geographical area?

15 A. Yes, it was central services, so it was in relation to

16 child and adult protection -- well, child protection at

17 that time as well as the duty and intake service.

18 Q. Was that across the whole of the Borders then?

19 A. There were teams based centrally that covered -- the

20 responsibility went across all of the Borders, yes.

21 Q. Then you became Interim Chief Officer for Public

22 Protection in 2017 up to 2018?

23 A. Yeah, that's correct.

24 Q. And that included child protection?

25 A. Correct, yes.

1 Q. Then you spent a time from 2018 up to June 2020 I think
2 you became Chief Social Work Officer at that time?
3 A. That's correct.
4 Q. You were also public protection officer at the time?
5 A. Yes.
6 Q. And you were the interim service director for children
7 and young people?
8 A. (Witness nods)
9 Q. So at that time were you covering the area of education
10 as well as --
11 A. That's correct. The role was Chief Social Work and
12 Public Protection Officer, so it covered both Chief
13 Social Work Officer functions as well as looking at
14 public protection services in the Borders and, correct,
15 it also covered part of a directorate for Children and
16 Young People's Services, which effectively was all
17 educational provision as well as Children and Families
18 social work.
19 Q. Okay. Then you I think changed role in July 2020 and
20 you describe your role then as being Chief Social Work
21 Officer and Public Protection Officer?
22 A. (Witness nods)
23 Q. I think your position as Interim Service Director had
24 fallen away at that time?
25 A. Correct, correct. The education component of the role

1 was taken up by a new director that was appointed.

2 Q. Then in September 2021 you became Director of Social

3 Work & Practice in Borders?

4 A. That's correct.

5 Q. That's your current role?

6 A. That's correct.

7 Q. And you remain Chief Social Work Officer?

8 A. That's correct.

9 Q. We obviously have a response to a Section 21 notice that

10 was served on the Borders and were you involved in the

11 preparation of that response to any extent?

12 A. I was correct, yes. I had oversight of the preparation

13 of the response.

14 Q. Okay. If we can look first of all at the response at

15 SBC-000000015, page 1. First of all just looking at the

16 predecessor authorities.

17 You tell us that in the early period, 1930 to 1975,

18 there were four county councils: Berwickshire,

19 Peeblesshire, Roxburgh and Selkirkshire.

20 Then from 1975 to 1996 it was Borders Regional

21 Council.

22 Then 1996 saw it turning into Scottish Borders

23 Council?

24 A. That's correct, yes.

25 Q. You then go on to address various questions and if I can

1 take you to numbers at page 17, so you were asked about
2 the number of children that the Local Authority
3 accommodated at a time in foster care and in how many
4 placements and you provide some information that you
5 obtained -- if you think about that early period when
6 there were county councils, did you manage to find some
7 material in relation to numbers over that period?

8 A. Yes. There was some material as reflected in the
9 response. Again there were challenges, to be honest, in
10 terms of identifying numbers that had been recorded and
11 I suppose how they'd been recorded and where they'd been
12 recorded, but we did manage to ascertain from, for
13 example, the Roxburgh Public Health and Public
14 Assistance Committee in 1931 there were numbers that
15 were identified there, which was 15 at that particular
16 juncture. Addressed -- some of the language that was
17 used is not something that's familiar or common in
18 today's practice, but also the terminology of
19 boarded-out was used quite frequently and seemed to
20 intersperse with other references, but both from
21 Roxburgh Public Health and Social Welfare Committee
22 again showing the changes in terms of the governance
23 arrangements in that local setting at that time, from
24 that in 1945, for example, managed to -- we identified
25 the recorded number of boarded-out children being 10

1 girls aged between 3 and 13 and 10 boys aged between 6
2 months and 13 years. The level of detail is quite
3 scant, but that's the information that we were able to
4 ascertain from historical records.

5 Q. Okay.

6 You then move on to the Borders Regional Council
7 period. For example, you tell us in August 1994 there
8 were 17 children placed with what's called community
9 carers, which are foster carers for children aged over
10 12, and 20 children with 11 foster carers. Was that all
11 the information that you were able to find over the
12 period when it was a region?

13 A. There was -- there were again challenges in terms of
14 identifying some of the information, but in relation to
15 that, as per the response that was made, we were able to
16 identify, for example, on 30 August 1994 the numbers
17 that you mention. The 20 children with 11 foster carers
18 in terms of the provision that was there at that
19 particular time.

20 Again, I would probably reflect that the records
21 even then were not as easily -- it wasn't as easy to be
22 able to identify the numbers consistently on an ongoing
23 basis.

24 Q. Okay. Then you came into the period of Scottish Borders
25 Council and you provided us with some figures in

1 relation to that time.

2 For example, you say in 2000 there were 43 foster
3 and community carers offering 72 placements.

4 Then moving to September 2015, there were 72
5 children in Scottish Borders placements and 18 children
6 in placements with independent foster care providers.

7 A. Yes, that's correct. Yes.

8 Q. Then at the time of writing this, and that was in
9 January 2020, there were 60 looked-after children in
10 foster care placements in 42 households and it says that
11 doesn't include 13 continuing care foster placements --
12 so would that be for children aged over 18?

13 A. It could be. It could be over 16 who have chosen to or
14 elected to go into continuing care, depending on their
15 legal status.

16 Q. Then 12 children in short-break respite placements.

17 A. Correct.

18 Q. First of all, are you able to bring us up to date in
19 terms of numbers of children in foster care?

20 A. I am, yes.

21 As of end of September 2022, the number of children
22 in foster care in Scottish Borders was 57. Eight of
23 those were in continuing care.

24 Also, just for reference, the number of foster carer
25 households was 41, which were equated to 69 individual

1 carers, obviously some of those being couples. So in
2 essence there are in total the number of approved
3 placements that we have is 61 and the occupation as of
4 30 September was 93 per cent. So that's -- you know,
5 the 57 out of the 61 are existing placements in the
6 Borders.

7 Q. Are these all with Scottish Borders carers or with any
8 carers from independent agencies?

9 A. Those figures relate to children who are with Scottish
10 Borders carers. I can say that again at the end of
11 September of this year there were seven young people in
12 independent foster care provision, outwith Scottish
13 Borders' Local Authority area, so those seven obviously
14 add to the numbers in terms of looked-after children we
15 have responsibility for, but there are seven who are
16 placed outwith in agency or independent fostering at
17 this time.

18 Q. Okay. So not only are those children placed with
19 independent carers, those independent carers are living
20 outwith the geographical area?

21 A. That's correct.

22 Q. Okay. Do you ever use independent carers who are based
23 geographically within Scottish Borders or not?

24 A. If the needs of the child have been assessed and it
25 identifies a particular skill set, for example, of

1 carers and they happen to be in the independent sector,
2 our preference would always be for children who are from
3 Scottish Borders to be placed in Scottish Borders if
4 they require alternative care. And that's very much
5 about taking a child-centred approach, recognising the
6 importance of their community, their attachments, their
7 networks that they have, even the geographic area is
8 really important to our children and young people.

9 So where at all humanly possible, if there is
10 an ability to place a child and it requires
11 an independent foster placement, we would always look to
12 try and do that in Scottish Borders in the first
13 instance. Failing that, obviously we match need to the
14 skill set of the foster carers that are available at
15 that particular time.

16 Q. What about kinship care? Do those numbers exclude
17 children in formal kinship care?

18 A. The numbers that I've given you do actually exclude the
19 formal kinship care. In total, as things currently
20 stand, Scottish Borders has 183 children who are looked
21 after in total, 22 in continuing care. Obviously the
22 number that are in kinship care is almost at a balance
23 with -- I think it's just slightly below, now -- the
24 number that we have in internal foster care. So I think
25 the number is something in the region of 47 at the

1 moment who are in kinship care, but who have that
2 status.

3 Q. Has there been an increase in the number of children who
4 are placed in formal kinship care?

5 A. Yes, I think it would be fair to reflect that we had
6 quite a significant increase in the uptake of kinship
7 care at a particular point when the legislation was kind
8 of going through or had been established. I think
9 that's kind of dropped slightly, just relatively
10 recently, but is again consistently being maintained at
11 a reasonably high level in terms of the balance of young
12 people who are in the Local Authority's care.

13 Q. I want to ask you some other questions arising from some
14 answers within your response. I wonder if we can look
15 on, please, to page 33. And towards the -- you're
16 talking there about culture of the organisation and
17 generally historic evidence shows a strong sense of the
18 principle of welfare of children throughout.

19 Then you reflect:

20 "At certain points, however, the commitment to best
21 practice in relation to the provision of childcare was,
22 in retrospect, questionable".

23 You give an example from the early period that
24 Berwickshire County Council had rejected the suggestion
25 that a children's officer be appointed, that they

1 thought that person should have a joint role with adult
2 support as well as responsibility for children. So
3 that's one of the examples that you give?

4 A. Yes.

5 Q. You also talk about potentially residential care being
6 favoured and then going down towards the bottom of this
7 page it says:

8 "The late implementation of a specific fostering
9 panel to meet Local Authority responsibilities in terms
10 of the 1984 regulations is perhaps another indication
11 where the culture and practice could have been better."

12 You refer back to an earlier answer, which I think
13 we find at page 29 at (f). It says there:

14 "To meet the responsibilities in terms of the
15 regulations, the panel was established in 1990."

16 It looks like it took five years after the
17 regulations to establish the panel.

18 It says:

19 "Initially the social work committee proposed that
20 the panel responsibilities continued to be carried out
21 by the home-finding group ..."

22 A. (Witness nods)

23 Q. So from the research that was undertaken, do you know --
24 was that the reason there why the panel wasn't set up
25 straight away, that the council thought another body

1 could maybe cover their role?

2 A. That is my understanding. That's the rationale that we
3 were able to identify from records.

4 Q. Okay. But I think you identify that as being a gap,
5 I suppose?

6 A. Yes.

7 Q. If we can move on to page 45, please, this is at the top
8 of the page, looking at again the earlier period and the
9 early 1970s. So when it was various county councils and
10 you've noted there from the research in Selkirkshire's
11 committee minutes:

12 "Until January 1973 there was no effective
13 structured fostering system which existed in the area."

14 A. (Witness nods)

15 Q. Although I think -- well, you tell me from your
16 researches: were you finding that children were being
17 boarded out or put into foster care at that time?

18 A. Yes. I think the records clearly show that there was
19 boarding out or fostering, as it's now known, taking
20 place at that time. I think the reflection is about
21 the -- I suppose the governance that was there in
22 relation to it.

23 Q. Okay. It then says:

24 "The ultimate extent of the development of the
25 fostering service will depend on (1) the assessment of

1 individual children's needs and (2) the ability of the
2 Priory Children's Home to provide more appropriate
3 measures of care than has been the case hitherto. For
4 proper assessment, it is essential to have an effective
5 input of specialist skills; and sufficient time must be
6 allowed for staff to make really valid assessments."

7 I think this might be connected to the point that
8 you made that we saw a moment ago, that there seemed to
9 be potentially a preference for residential care rather
10 than looking to place children in foster care?

11 A. Yes, I think that's certainly our reflection or
12 certainly my reflection is that there was a preference
13 for residential care over foster care at that time and
14 it was quite apparent in terms of some of the records in
15 terms of people -- in terms of where they were being
16 boarded out and one of the first options seemed to be
17 residential care as opposed to any kind of
18 community-based placement with foster care or indeed
19 being boarded out. It very much seemed to be the
20 preference to go for a residential setting.

21 Q. Perhaps what it's suggesting here is that children were
22 being placed in the children's home rather than
23 an individualised assessment of their needs being
24 undertaken?

25 A. Yes.

1 Q. If we move on to page 46, please, you're addressing
2 there various questions about policy in relation to
3 various areas and you've been asked a question about
4 policy in relation to children's views and it says here:
5 "There is no specific policy on the child's views,
6 but there is an expectation that a child's views are
7 sought at all stages of assessment, planning, in formal
8 meetings and in ongoing intervention."
9 A. (Witness nods)
10 Q. A couple of things within that. One, is it just
11 an expectation that the child's views are sought or is
12 it a requirement?
13 A. Again, in the context of -- sorry, in the context of
14 some of the information it was apparent that it was ...
15 I suppose there was a policy or guidance in place.
16 I suppose I can reflect that to what happens now, which
17 is that the children and young people are very much at
18 the centre of all the planning that takes place and
19 we've changed and adapted I suppose a number of
20 different ways in which we seek the views and the wishes
21 of children and young people to ensure that they're at
22 the centre of any of our considerations going forward.
23 An example of that would be we have an app called
24 MOMO, which is Mind Of My Own, and crucially what that
25 does is it's adaptable in terms of the age or stage of

1 the particular child or young person and crucially for
2 me and my colleagues is that it gives the child or young
3 person the opportunity to express their views without
4 necessarily having to sit in a formal setting to do so.
5 They can do that electronically.

6 I mentioned that it's adaptable to take on board the
7 age and stage of the young person. Another thing that's
8 really important is where there may be communication and
9 additional support needs, for example, for young people,
10 the app is adaptable to make sure that we can elicit the
11 views from children who have communication issues, for
12 example. That's just one way in which we're actually
13 ensuring that the voice of the child is actually at the
14 centre of all the planning that is taking place for
15 them, recognising that formal meetings is a very
16 difficult environment for a child or young person to go
17 into.

18 Q. So there would be a combination of different ways
19 I suppose in which you could take the views of a child.
20 You can use the app, you can speak to them directly, you
21 might meet them in different settings?

22 A. 100 per cent. We are keen to make sure that actually
23 we're not seeing children in a single setting, that it's
24 actually multiple settings, obviously being sensitive to
25 the nature of the intervention with the child or young

1 person, but also being able to do that in a safe and
2 secure way and very much about the relationship between
3 the social worker and the child and that developing
4 relationship and trusting relationship, making sure that
5 that child has the opportunity to express their views
6 and wishes, not only on that personal level with
7 a social worker but, as I say, there are other ways --
8 I don't -- just to be clear, the Mind Of My Own is not
9 the only method we use, you're absolutely correct. It's
10 mainly relationship based and making sure that actually
11 that child has the opportunity to be able to express
12 their views.

13 And, again, it might not be the social worker that
14 is the best person to meet with that child or young
15 person. It may be someone that the child identifies as
16 someone that they trust, that we make sure that we make
17 them available so that at all points the child's views
18 and the child's wishes are taken into consideration.

19 Q. If we move on to page 48 and you're addressing here
20 adherence in practice to the various policies and
21 procedures that were referred to in the earlier part of
22 the question. As a preamble to this you say at the very
23 bottom of the page:

24 "There is little evidence or information on formal
25 policy or practice guidance in relation to foster care

1 prior to the establishment of the Family Placement Team
2 in 1992. This makes answering the following questions
3 from a historic perspective impossible. Therefore
4 unless otherwise stated, the list below reflects current
5 practice."
6 A. Correct.
7 Q. When you say "current practice", do you mean from 1992
8 up to date or do you mean actually -- well, in 2020,
9 when you were writing this?
10 A. It was probably referenced to 2020, to be perfectly
11 honest with you. I think the significant improvements
12 since 1992 are evident. However, I think the practice,
13 as with all things, evolves and changes over time and
14 I -- on reflection I think what we were actually
15 eliciting there was that it was about the 2020 practice,
16 but it started in 1992 and it doesn't really make a lot
17 of sense, I appreciate, but improvements started in 1992
18 up to -- but we reflected that as of today, like 2020
19 practice.
20 Q. If we go over the page to page 49 when you're asked:
21 "Did the Local Authority adhere in practice to its
22 policy and procedures in relation to provision of foster
23 care?"
24 The answer is:
25 "Yes, with generally minor exceptions due to

1 particular circumstances or staff oversight. From our
2 review of cases, these did not knowingly result in
3 a failure to protect children."

4 You repeat this answer I think to most of the
5 questions about adherence and practice?

6 A. Yes.

7 Q. So I want to understand it. When you say there were
8 generally -- well, how did you find out that there were
9 minor exceptions? How did you make that assessment?

10 A. So it's where there was some references to, for example,
11 where the then director of -- whoever the person was
12 that was the agency decision maker at that time was
13 asked for example to approve an over approval in terms
14 of like a foster carer going over the number of
15 registered placements, if that makes sense.

16 Again, under exceptional circumstances that could
17 have been considered and would have been reflected in
18 the numbers of children that were in the care of
19 a foster carer at any given time.

20 Also, for example, there may have been a position
21 where the needs of a child meant that they had continued
22 their respite beyond what was planned for the respite,
23 most of which would be reflected in individual child's
24 files, in particular. So that's what we're meaning by
25 that reference to the policies and procedures were

1 adhered to and that element about circumstances or
2 exceptions to that would be things that were actually
3 about what was in the benefit of the child or young
4 person, whether that be indeed going over numbers in
5 terms of the registered number of placements for
6 a foster placement in the short term or indeed
7 an extension of, for example, planned respite, because
8 that's what was assessed as necessary for the child.

9 So technically speaking was outwith the parameters
10 of the policy at that time, but would be done because of
11 the -- in the interests of the child as an exception.

12 LADY SMITH: When you say that time, is this looking back to
13 1992 or is it just what was going on in 2020?

14 A. Sorry, that's back to 1992. Sorry.

15 LADY SMITH: Okay, thank you.

16 MS INNES: You mentioned the Director of Social Work or the
17 agency decision maker being asked to review a matter.
18 What was the source of your information? Did you look
19 at a selection of children's files, for example, or were
20 you looking at minutes?

21 A. We generally were looking at individual children's files
22 and again it was about reflecting where there may have
23 been exceptions and it's not that we went through every
24 single child's case, just to be clear. What we did do
25 is we were able to identify where there may be minor

1 exceptions -- the word "minor" is not particularly
2 helpful in this.

3 That where we applied a degree -- where a degree of
4 discretion was applied in the interests of the child in
5 terms of the policy and procedure, making sure ... and
6 again it was just a sort of general reflection that
7 these are the types of situations that had happened that
8 we knew where children, for example, had been placed
9 over and above the numbers registered for a foster
10 placement. So that led back to obviously a decision of
11 the agency decision maker at that point: is it in the
12 short-term interests of the child?

13 Q. Did you find that -- did you select individual
14 children's files at random and read them or did you look
15 at minutes of review meetings of panels and then look at
16 the files from there?

17 A. It was mainly about where in terms of some of the
18 fostering records, for example, where a child had been
19 placed over the numbers, that's where we were able to
20 recognise that that was an exception that we would do.
21 We didn't go into specific -- we didn't drill into
22 specific cases, if that makes sense. It was just to try
23 and give a flavour of where we may have looked at --
24 there may have been an exception to the policies and
25 procedures at a particular juncture.

1 Q. Okay.

2 LADY SMITH: Why did you pick that example as opposed to
3 something else that may have happened?

4 A. It was just an example that we -- that I was basically
5 trying to explain, that going over numbers could be
6 an example of where we have gone beyond the policy and
7 procedure at that time.

8 MS INNES: It also refers to staff oversight.

9 A. Yes.

10 Q. Do you know what that --

11 A. Again the wording of that, in essence that it would be
12 done with staff who were involved having full oversight
13 of any exception to the policy and procedure at that
14 time.

15 Q. I see.

16 You say that from your review of cases, these did
17 not knowingly result in a failure to protect children.
18 What do you mean "not knowingly"?

19 A. Well, it's that -- I suppose what we were trying to
20 express there was that where we have not adhered to the
21 policy or procedure at that particular time under
22 exceptional circumstances was doing so in the best
23 interests of the child.

24 LADY SMITH: I'm not sure I follow that. Let me ask you
25 this: what did you think you were being asked?

1 A. I think it was: have we ever gone above and beyond the
2 policies and procedures at any given time? And what we
3 were trying to reflect was that there are occasions
4 where we would go beyond --

5 LADY SMITH: Sorry to stop you, Stuart, you've told me
6 that -- maybe half a dozen times now -- I've got that
7 point. It's when we're on the second line there, that
8 you've added:

9 "From our review, these did not knowingly result in
10 a failure to protect children."

11 What is it you're trying to say there? I have to
12 say, it leaves me confused.

13 A. Okay, apologies for that. I think it's actually a very
14 poor choice of wording, if I'm totally honest with you.

15 LADY SMITH: Yes.

16 A. I think given the context of the Inquiry we were trying
17 to say that at no point were children put at risk in any
18 way in relation to that.

19 LADY SMITH: Oh, how can you say that?

20 A. Well, again because the circumstances of each case was
21 looked at in the context of minor exceptions to the
22 policies and procedures with staff oversight.

23 LADY SMITH: I think we're going round in circles here,
24 Stuart, actually.

25 A. We are, apologies.

1 LADY SMITH: Let me be blunt. It sounds as though you're
2 trying to cover your back and make sure that it doesn't
3 read as though you're accepting there was some degree of
4 fault on the part of the Local Authority. That may not
5 be what you meant, but it reads a little bit like that.
6 A. My apologies, that's certainly not how --
7 LADY SMITH: Okay.
8 A. -- I meant it, if that makes sense.
9 LADY SMITH: Okay, well, thank you for that.
10 Maybe we can just ignore that line?
11 A. Okay.
12 LADY SMITH: Because what we're really interested in is
13 discovering whether there were systems, whether there
14 were policies, whether they were always adhered to, and
15 if they weren't, how come? How did that happen? Does
16 that help you?
17 A. Yes.
18 LADY SMITH: Thank you.
19 Ms Innes.
20 MS INNES: Thank you, my Lady.
21 Can I move on to page 53, where you've been asked
22 about a policy in relation to discipline.
23 So page 53 and it's at -- sorry. Yes, discipline.
24 You say there:
25 "There is no specific policy or guidance in terms of

1 discipline (other than that corporal punishment of
2 children in foster care is forbidden). The role of the
3 supervising social worker is key in supporting children
4 in foster placement with challenging behaviour."

5 There's a reference to the foster carer handbook,
6 saying that the role of the Family Placement Team social
7 worker is:

8 "... during supervision sessions the social worker
9 will encourage you to reflect on any issues being
10 presented in order to discuss alternative understandings
11 and/or responses to the challenges you are presented
12 with in your role as a foster carer and to identify any
13 additional support or resources that could promote the
14 well-being of the children in your care and other
15 household members."

16 Is it right that there's no specific policy or
17 guidance about discipline of children in foster care?

18 A. No, there was significant levels of training and
19 development that takes place as well as reflections
20 about positive behaviour and how to manage behaviour in
21 foster care.

22 I suppose what's referenced there is that there's no
23 specific policy or guidance on its own, it's embedded
24 within other policy and guidance that actually is issued
25 and what's mentioned there is the foster carer handbook,

1 which is quite significant in terms of how it covers,
2 you know, positive behavioural working between foster
3 carers and children and young people in their care.

4 So I suppose what's referenced there is that there's
5 no specific element or policy procedure about
6 discipline, but it is contained within other policies
7 and procedures that foster carers actually have and
8 adhere to.

9 LADY SMITH: When was the foster carer handbook first
10 published for the Borders?

11 A. I don't think I can answer that, to be perfectly honest
12 with you. I would have to look back at the record.

13 LADY SMITH: Okay. Thank you.

14 MS INNES: Is it something that they've had since you've
15 been involved in --

16 A. Yes.

17 Q. Since you've been employed?

18 A. Yes.

19 Q. Can I move on, please, to page 68 where you're asked
20 about complaints policy. You tell us at the bottom of
21 the page about the Scottish Borders Council complaints
22 policy, so a corporate procedure for complaints.

23 A. Yes.

24 Q. Then if we go over the page there's also reference to
25 an allegation against foster carers section in the child

1 protection procedures?

2 A. Yes.

3 Q. So there's reference to that.

4 Then at the bottom of the page there's a question:

5 "What do the policies and/or procedures set out on
6 the following: complaints by children."

7 The answer to the part about corporate complaints
8 begins by saying:

9 "The corporate complaints procedure does not
10 differentiate between children and adults. Children
11 have the same rights as adults in making a complaint."

12 I can see that obviously they should have the same
13 rights, but the question from the child's perspective
14 is: is it accessible to children?

15 A. So the formal council complaints process, yeah, I take
16 your point. I suppose what I would be saying is that
17 the children and young people are afforded any
18 opportunity that may be required to actually, if they're
19 not happy, if they're uncomfortable, if they are
20 concerned about anything, through a myriad of different
21 people and one of the key factors that we have in
22 practice is, for example, the meetings around the child
23 which obviously is embedded or enshrined as part of our
24 approach for getting it right for every child, so there
25 are multiple opportunities for children to be able to

1 make complaints.

2 What this references to is the specific corporate
3 complaints policy for Scottish Borders Council, but any
4 concern that a child has can be taken as a complaint
5 through a multitude of different -- any member of the
6 team around the child, teaching staff, anybody could
7 support that child in terms of making a complaint.

8 I think it's been too literally responded to in the
9 terms of the council's formal corporate complaints
10 process.

11 Q. Okay.

12 If we can move on to page 76, please, and you're
13 talking towards the bottom of the page about practice in
14 relation to internal investigations. If we look at the
15 very last answer on this page, which is about the
16 approach to and process of internal investigations, and
17 it says:

18 "It was identified that the use of the disruption
19 policy and process was not used in all cases where it
20 was appropriate. This resulted in review and reissuing
21 of the policy in 2016 (the previous iteration) and
22 a greater focus on ensuring disruption process is
23 followed where appropriate."

24 First of all, what does the disruption policy cover?
25 What is it about?

1 A. In essence the disruption policy is where a placement
2 has broken down and it's to examine the reasons why
3 that's happened, the lead-up to it and any subsequent
4 learning that may come from that.

5 It also serves as a learning opportunity in terms
6 of -- a reflective learning opportunity, in terms of
7 things that should be done differently that may have
8 mitigated or prevented that from happening.

9 Q. You say that it was identified that it wasn't being used
10 in all cases where it was appropriate. That's not
11 something you found out while you were doing the Section
12 21 notice, it appears that this is something that was
13 recognised prior to 2016?

14 A. (Witness nods)

15 Q. What's your understanding of why it wasn't being used in
16 all cases?

17 A. My understanding at that particular point was that there
18 had been a number of disruptions to children's
19 placements that had not gone through the formal or the
20 proper disruption process, where that opportunity for
21 learning and reflection had effectively not taken place.

22 That was picked up by senior managers at that
23 particular point, which led to them identifying the gap
24 and reissuing the guidance to ensure that all staff were
25 aware of the need to conduct a disruption meeting so

1 that that -- not just that learning, but it's also about
2 again focusing on what's happened for that particular
3 child and obviously recognising the importance of that
4 learning but also that reflection in terms of child's
5 files going forward.

6 So my understanding is that it was reissued by the
7 senior manager at that point, because they recognised
8 that it was not being used each time there was
9 a disruption to a placement.

10 Q. I suppose it might also be important for the foster
11 carers' file --

12 A. (Witness nods)

13 Q. -- so that there's a clear record of why it is the
14 placement has come to an end and people's reflections on
15 that?

16 A. Absolutely. It covers a multitude of things, not only
17 about the child or young person but also, as you say,
18 about the foster carer themselves and the fostering
19 services in the wider context.

20 Q. If we can move on to page 84 and you're talking here
21 about recording and how case files are kept. I think
22 you have an electronic case file system you tell us
23 about called Mosaic?

24 A. (Witness nods)

25 Q. At (iv) there's a heading, "Complaints" and it says

1 there:

2 "Complaints against foster carers are recorded on
3 their individual file, recorded centrally (and retained
4 for three years) and sent to the Care Inspectorate as
5 notifiable incidents."

6 We can understand the part about them being recorded
7 on the individual file and we can understand the holding
8 of a central complaints log. Is it the central log
9 that's only retained for three years?

10 A. That's -- that's what it states, but that's not my
11 understanding actually, so my apologies -- I would need
12 to again check that, because that doesn't -- that's not
13 my understanding, that it's the log that is retained
14 only for three years. The log stays, is my
15 understanding.

16 So I think we've made an error in terms of that part
17 of the submission.

18 Q. Okay. It's because I wondered if, for example, a foster
19 carer were to, you know, apply to another Local
20 Authority, you could obviously look at their file, but
21 if there was a central log that would seem to be a first
22 port of call?

23 A. Yeah. I think what I would say is if a foster carer --
24 if there had been an incident in terms of a complaint,
25 it would also be recorded in the foster carer's file, if

1 that makes sense, as well as on this central log.

2 The reality would be that if any foster carer then
3 applied to, for example, a neighbouring authority, that
4 would still be retained -- that information about that
5 previous complaint would be available on the electronic
6 system.

7 Q. Provided that you still have the foster carer's file?

8 A. Yeah. The retention of the foster carer's file on the
9 electronic recording system would be significantly
10 longer than what's stated there.

11 Q. Do you know how long it is retained for as a matter of
12 practice?

13 A. It will ... I wouldn't be able -- I couldn't put my hand
14 on it right away to be honest with you, but it will be
15 quite a significant period of time.

16 Q. Okay. I mean I think we've heard that there was
17 a retention period of 25 years from de-registration or
18 from last placement?

19 A. Yeah. I didn't want to kind of speculate, but 25 years
20 was the number that was in my head, yes.

21 Q. I just wondered whether there was any different practice
22 to that.

23 A. (Witness shakes head)

24 Q. Okay. Right, I'd like to move on to the next page, and
25 your Part D response there. In the preamble you say:

1 "Individual incidents of abuse and alleged abuse
2 discussed in Part D are cases from 1990 to
3 17 December 2014 only. This is due to the limited
4 systematic recording of incidents and allegations of
5 abuse prior to this date. The individual incidents are
6 primarily sourced from the fostering panel minutes and
7 cross-referenced with foster carer and children's
8 files."

9 Am I right in taking from that that in order to
10 respond to the Section 21 notice you started by
11 reviewing fostering panel minutes; is that right?

12 A. Yeah, it was -- it was quite extensive in terms of
13 fostering panel minutes, but in terms of looking at any
14 allegations of abuse obviously going all the way back
15 to -- we had officers across in the archives pulling any
16 information that pertained to fostering, boarding out
17 from 1930 onwards as well as a senior officer that was
18 present to basically again go through any
19 documentation -- ledger books is the only way I can
20 describe what was found. But it would have been
21 a cross-reference of a variety of different things,
22 including, as you mention, minutes of panel meetings as
23 well as a number of other sources.

24 Q. Okay. Could we look, please, at SBC-000000030. This is
25 answer to follow-up questions posed by the Inquiry and

1 we were asking there about that part of the Part D that
2 I've just referred to. We asked there:
3 "Are we right in understanding that you identified
4 the incidents and allegations from fostering panel
5 minutes and then reviewed the connected foster carer and
6 children's files? If not, please explain the approach.
7 Did you carry out an audit either by looking at foster
8 carer files or children's files over the relevant
9 period, whether by way of sampling or otherwise? If you
10 did that, can you please tell us how many files you
11 reviewed?"
12 The answer to that is:
13 "The process used was as you describe -- the
14 incidents are primarily sourced from fostering panel
15 minutes and cross-referenced with foster carer and
16 children's files. Throughout this period, significant
17 issues relating to the care of children in foster care
18 were reported to the fostering panel and minuted.
19 Cross-referencing with children's files enabled further
20 examination of issues recorded."
21 That looks as though the primary source was the
22 minutes?
23 A. Sure, yes.
24 Q. And then from the minutes you would identify -- you
25 would go and look at the relevant foster carer file?

1 A. (Witness nods)

2 Q. And then you would identify the children that they cared
3 for and read their files?

4 A. Yes.

5 Q. Okay, so am I right in thinking that it essentially all
6 depends on what's in the fostering panel minutes?

7 A. Substantively, yes. It's in terms of that recording
8 process in terms of being able to identify where those
9 incidents have been recorded, that would be the primary
10 source, yes.

11 Q. So if the fostering panel hadn't been told that there
12 had been an allegation of abuse, it wouldn't have shown
13 up in the minutes?

14 A. No.

15 Q. And you wouldn't have looked at the files?

16 A. No.

17 Q. If a child hadn't reported abuse at all at the time,
18 that obviously wouldn't be there.

19 I suppose the other possibility is that maybe the
20 fostering panel minutes didn't refer to any allegation
21 of abuse if there were -- well, perhaps you talked
22 earlier about disruption meetings not happening.

23 A. Mm.

24 Q. And if that hadn't happened, would that not affect the
25 recording of an allegation?

1 A. Potentially, yes. Yeah. If -- again, it's the --
2 I would be confident that if it was discussed at a panel
3 that it would be reflected in the minute of a panel, but
4 ultimately, as you say, if there had not been any
5 reflection or any process that would highlight that to
6 a fostering panel, for example, it would not necessarily
7 have actually been discussed, yes.

8 Q. I suppose the other issue is that if somebody's resigned
9 as a foster carer or been de-registered and
10 an allegation is made later on, then there would be no
11 minute because there would be no fostering panel to go
12 to in relation to that allegation?

13 A. Not in relation to that -- yeah, unless of course that
14 was minuted at the point the person was de-registered,
15 I suppose.

16 Q. Yes. I mean I think when you go on in your Part D, for
17 example, you found that most of the allegations that you
18 identified had been made at the time?

19 A. Yes.

20 Q. But that might be a product of the approach that you
21 took?

22 A. Yes.

23 Q. Okay.

24 A. No, I accept that, yeah.

25 Q. Right. If we can go back, please, to SBC-000000015 and

1 to page 85. If we scroll down to look at the extent of
2 the abuse, at paragraph 5.2(a):

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

5 It says there:

6 "Scottish Borders Council believe the scale and
7 extent of abuse of children in foster care to be
8 minimal. It does not detract however from the very
9 serious nature of any incident of abuse, particularly
10 when it has occurred within a foster care setting."

11 I think you've maybe reflected on the use of
12 language there?

13 A. Yeah, the use of language is fundamentally wrong. As
14 I say, mentioned later, it's not about detracting at all
15 in terms of the impact on children and young people of
16 having experienced abuse in foster care at all. It's
17 a very poor choice of wording and if I could change it,
18 I would, to be perfectly honest.

19 Q. You then talk about the basis of your assessment, which
20 is the review that you've carried out as you've
21 described. Then at (c):

22 "How many complaints have been made in relation to
23 alleged abuse of children in foster care?"

24 You say that you discovered eight cases, eight
25 individuals:

1 "Eight individuals but in two cases, concerns were
2 around general care, discipline and inappropriate
3 chastisement and are likely to have involved a number of
4 children."

5 So that would be eight foster carers but a number of
6 children affected --

7 A. Yes.

8 Q. -- by that?

9 Then over the page -- oh, sorry, there's a question
10 at the bottom of the last page:

11 "Against how many foster carers have the complaints
12 been made?"

13 Then it says:

14 "Ten carer households, 14 individual carers."

15 I didn't quite understand the -- at (c) it talks
16 about complaints being made against eight individuals.

17 But then over the page it talks about 10 carers
18 households?

19 LADY SMITH: Unless the individuals in (c) are meant to
20 refer to children? I follow what Ms Innes is saying and
21 I did a double take on that and I wondered if that was
22 what was meant?

23 A. I think the eight in the previous, in (c), was actually
24 referring to children.

25 LADY SMITH: So eight children identified as being --

1 A. Yes.

2 LADY SMITH: -- children who had experienced abuse.

3 A. Abuse.

4 LADY SMITH: But the point also made, on the information

5 available, it seems likely that other children --

6 A. Yes.

7 LADY SMITH: -- were abused as well as the eight?

8 A. Yes.

9 LADY SMITH: So we don't need to worry about that being

10 a number attributed to abusive foster carers. We go to

11 the next answer for that, is that right?

12 A. Yes.

13 LADY SMITH: Thank you.

14 MS INNES: You then go on at (e) to say:

15 "One foster carer has been convicted of the abuse of

16 children."

17 We'll come back to him later.

18 Then at (f) you say that out of how many foster

19 carers have been found by the Local Authority to have

20 abused children, seven carer households, nine individual

21 carers.

22 A. (Witness nods)

23 Q. I suppose that might look in comparison to some other

24 evidence that we've heard from other people's

25 assessments, that's quite a high proportion of the Local

1 Authority making a finding that abuse has happened out
2 of the number of complaints that they have identified,
3 but I suppose that might be a product of the methodology
4 as well?

5 A. Yes.

6 Q. If it's at the stage of the panel, a decision is having
7 to be made about that abuse essentially.

8 A. Yes.

9 MS INNES: I see.

10 Right, it's nearly 3 o'clock my Lady and I'm going
11 to move on to look at some other matters.

12 LADY SMITH: If that would work for you, Stuart, we'll take
13 a short break now and then get back to your evidence
14 after that.

15 A. No problem.

16 (3.00 pm)

17 (A short break)

18 (3.11 pm)

19 LADY SMITH: Are you ready for us to carry on, Stuart?

20 A. Yes, I am, thank you.

21 LADY SMITH: Thank you.

22 Ms Innes.

23 MS INNES: Thank you, my Lady.

24 I want to turn to look at the conviction that is
25 mentioned in your response and it's at JUS-000000042 and

1 it will come up on the screen in front of you. We can
2 see that this is a conviction from Jedburgh Sheriff
3 Court. It was in fact in Duns Sheriff Court at the
4 time, and the date of the conviction was 20 April 2011
5 and he was sentenced in June 2011.

6 There are four charges of sexual offences.
7 Your Ladyship will see that there are various periods of
8 imprisonment, a total period of imprisonment of
9 52 months.

10 LADY SMITH: Yes.

11 MS INNES: If we go on to page 3, we can see the charges and
12 it can be seen that the first charge relates to a person
13 over -- sorry, I'll start again.

14 The foster carer was in a position of trust and that
15 is the context of the charge, obviously, and it says
16 that he had sexual intercourse with a person who was
17 a child in foster care. She was 17 at the time and he
18 was 33.

19 There is then another charge, it's over the same
20 period in respect of the same complainer, but it's
21 section 3(1)(b) as opposed to section 3(1)(a) of the
22 2000 Act.

23 Then a similar pattern is followed in relation to
24 the other complainer. That complainer was 16 at the
25 time in charge 3. It was in between January and

1 March 2010. Then over the page we see the charge in
2 respect of that complainer under section 3(1)(b) and
3 again obviously that child was in foster care.

4 If we can move on to page 10 of this document, we
5 can see that this -- sorry, it starts at page 9. There
6 is a report for the Parole Board by Sheriff Corke. We
7 can see that the report was prepared because the
8 offender had been given a custodial sentence of more
9 than four years and it's noted at paragraph 2 that he
10 pled guilty at the first calling and sentence was
11 deferred.

12 If we can go on to page 11 --

13 LADY SMITH: That tells me the likelihood is that he
14 received a 25 per cent discount on his sentence.

15 MS INNES: Yes.

16 This is the first paragraph that we see on page 11
17 is reference to what was said in mitigation, I think:

18 "He had been at a low ebb psychologically and
19 emotionally, there was an element of denial in the
20 psychological report. He had been anxious and low.
21 However non-co-operation was not the common theme.
22 There was no real psychological issue. He was deeply
23 ashamed of his actions, which he could not explain. He
24 had a difficult childhood and significant violence from
25 his stepbrothers. He would never be a foster carer

1 again and was at low risk of re-offending. There were
2 protective factors and there was probation as
3 an alternative to custody. He acknowledged that it was
4 a significant breach of trust. Both complainers had
5 been of age and there was no issue of consent and no
6 previous offences. He was entitled to full credit for
7 his pleas. These were [it was submitted on his behalf]
8 not the worst offences of their kind. He had a level of
9 insight. He had let his partner, his family and the
10 complainers down. He deeply regretted his actions and
11 was naturally anxious."

12 Then your Ladyship will see at paragraph 10 that the
13 sheriff says that he:

14 "... regarded the behaviour in these charges as
15 gross breaches of trust. There was no realistic
16 alternative to imprisonment and not to make the
17 sentences consecutive would fail to mark the different
18 offences or to respect the suffering of the individuals
19 concerned. Concurrent sentences would encourage
20 offenders to think that they could do more harm for the
21 same sentence."

22 Then he says:

23 "The offences came about because the offender and
24 [REDACTED] took care of foster children."

25 It notes:

1 "The complainer in charges 1 and 2 had lived with
2 them as a foster child for seven years and was 16/17 at
3 the dates of the offences, meaning that she had lived in
4 family with him since the age of 9 or 10. She had been
5 placed because she was a previous victim of sexual
6 abuse, of which the offender was aware."

7 Then at the top of the next page, at paragraph 12:

8 "The other complainer was a similar age, had also
9 been placed in foster care because of sexual abuse. She
10 had learning difficulties."

11 Then it says:

12 "The sordid nature of the offences can be seen from
13 the face of the charges, the transcript and the
14 narrative. The 'relationship' [in inverted commas] was
15 initiated in each case by the offender and is just the
16 sort of predatory behaviour by a person in a position of
17 trust that the legislation was designed to address,
18 given that each was above the age of consent. Had they
19 not been consensual, it would have been in the High
20 Court, as the offender's solicitor pointed out."

21 He goes on to talk at paragraph 14 about:

22 "The offending behaviour going on furtively in the
23 victims' home and without the knowledge of [REDACTED]
24 [REDACTED]."

25 He notes at the end of that paragraph:

1 "The offender denied his behaviour at first and
2 didn't report any allegation to Social Services as he
3 should have done."

4 It's noted that he was a trained foster carer, twice
5 the age of his victims. It had a devastating impact
6 upon the girls, as per the victim impact statements, and
7 he notes that the offender had no previous convictions
8 but he says that's not unexpected in a foster carer.

9 That sets out some of the background and also the
10 Sheriff's thinking in relation to the imposition of the
11 custodial sentence.

12 Stuart, I know that you're aware of this conviction
13 and one of the questions that the Inquiry raised with
14 you following receipt of the Section 21 response was
15 whether there had been any review, learning review,
16 significant case review, anything like that following
17 upon the conviction.

18 A. (Witness nods)

19 Q. I think your response was that it was understood that
20 there was a disruption meeting but no wider review; is
21 that right?

22 A. That's correct. I have looked -- as you mention, I was
23 involved in this case in that I was the team leader for
24 the locality team that covered that particular area and
25 indeed two of the young people in that placement had

1 social workers allocated from my team that I managed.

2 I have looked back in the records. Obviously the
3 disruption meeting did take place. I attended that
4 disruption meeting. I have looked to see if there was
5 any further examination of what had taken place by way
6 of significant case review or anything to that effect
7 and there is -- I can't find anything other than the
8 disruption meeting is what I found.

9 Q. Just on the disruption meeting, your solicitor has
10 provided a copy of the minutes of the disruption
11 meeting. It's not in the bundle, so not available
12 electronically, but copies of the disruption meeting
13 have been made available and I think one of them is in
14 front of you, hopefully, it should be on the desk under
15 the folder, I think.

16 A. Oh, yes. Yes.

17 Q. We can see that this took place on 28 May 2010 at 2 pm
18 and you were one of the people present, as you say.

19 A. That's correct.

20 Q. This was obviously after the -- I assume after the
21 allegations had been made but before the conviction that
22 we've just looked at?

23 A. That's correct.

24 Q. We can see that it's said that the purpose was to
25 discuss the circumstances of the young people and to

1 ascertain whether any of them could return to their
2 placement in the near future. It notes that at the time
3 there were four young people in placement with these
4 carers.

5 A. That's correct.

6 Q. If we look on to the next page, under "Recent events",
7 in the first paragraph you note that police
8 investigations are ongoing so you can't disclose full
9 details of the current situation.

10 You say how it had become known, so one of the young
11 people who was in placement had told their son's
12 girlfriend --

13 A. Correct.

14 Q. -- that she was in a sexual relationship with the foster
15 carer.

16 A. That's correct.

17 Q. Did the son's girlfriend then do something about it?

18 A. Yes, she mentioned it to the allocated social worker for
19 one of the young people during a visit.

20 Q. Okay. As a result of that were child protection
21 procedures then implemented?

22 A. Implemented and mitigated, yes, absolutely.

23 Q. Were the young people who were in placement removed from
24 the care of Mr Thomson?

25 A. They were removed with immediate effect, yes.

1 Q. We saw that one of the purposes of the meeting was to
2 consider whether they could return to their placement.
3 What was the outcome of that discussion?
4 A. The outcome was they would not be returning to the care
5 of that placement.
6 Q. Okay. We can see, I think, that the minute goes on to
7 talk about the circumstances of the young people.
8 I think for example one of the issues discussed is the
9 fact that one of the young people has learning
10 disabilities?
11 A. That's correct.
12 Q. As was highlighted in the Sheriff's report. And how she
13 might be supported, I think.
14 A. (Witness nods)
15 Q. Beyond that, I don't know whether you can point us to
16 anything in the minute that you're aware of, Stuart,
17 that indicates sort of wider learning or --
18 A. The -- sorry. Yeah, in terms of the wider learning,
19 this obviously was a disruption meeting which was
20 focusing on the immediacy of the needs of those
21 children.
22 I should also just reflect that one of the other
23 considerations to minimise the disruption to the
24 children is for at that point the alleged perpetrator,
25 at that particular point, was able to leave the

1 household by a way of keeping some degree of normality
2 for the children. That was ruled out quite quickly.
3 It's just to reflect that that was also considered to
4 make sure that we were remaining child-centred.

5 But back to your -- sorry, back to your question, in
6 relation to -- sorry, can you reframe your question or
7 ask me the question again, please, sorry?

8 Q. This disruption minute, are you aware if it contains
9 anything about, you know, wider learning or lessons for
10 practice?

11 A. It doesn't identify it specifically in this particular
12 disruption minute, but there were certain actions that
13 were -- or certain issues that were identified in
14 relation to the nature of visits and opportunities for
15 young people to be able to speak to their social worker.

16 In addition to that, one of the things that happened
17 was the allocated social worker and the social worker
18 for the foster carer were at times ... for example if
19 the allocated foster -- the allocated social worker for
20 the foster carer was going out to do a visit, they would
21 say that that was the statutory visit for the child as
22 well at the same time, so almost doubling up, if that
23 makes sense. That practice was stopped with immediate
24 effect on the back of that learning.

25 Q. Okay. So that's the disruption minute, and, as you say,

1 beyond that there were no further reviews or --

2 A. I'm unable to find anything from our -- whether it was

3 discussed in terms of significant case review or

4 considered. I couldn't find any record of that.

5 LADY SMITH: If we just spell out why the practice of one

6 social worker going out and regarding it as a visit both

7 for the foster carers and for the children?

8 A. Okay.

9 LADY SMITH: Tell me what -- I think I know what your answer

10 is, but tell me what you identified was wrong about

11 that.

12 A. We were identifying that actually it confuses the

13 boundaries and the purpose of that social worker's

14 intervention. Having them -- just because it's a social

15 worker, the roles and functions are very distinct and

16 very different, and making sure that actually the

17 relationship between the child and their social worker

18 is protected and very clear that that's about the needs

19 of the child as opposed to the needs of the carer.

20 LADY SMITH: Does it also mean that the person who should be

21 focusing on the needs of the child may be building too

22 close a relationship with a foster carer who, as it

23 turns out, is actually an abuser?

24 A. Indeed, yes.

25 LADY SMITH: And it may cloud their vision?

1 A. Absolutely. And that independence in actually being
2 able to look at it through a different lens in terms of
3 actually the needs of the child being paramount, yes.

4 LADY SMITH: Thank you.

5 MS INNES: I'd like to move on and ask you to look at
6 another document that you provided to the Inquiry.

7 That's at SBC-000000025. This is in relation to the
8 de-registration of a carer at the beginning of 2014.

9 If we can look on to page 2 of this, we see the
10 report by the supervising social worker for the panel.

11 If we look into the first paragraph it says that the
12 recommendation is that this person be de-registered as
13 a foster carer. The recommendation had arisen partly
14 due to her submitting a month's notice to resign. It
15 says dated from 17 January 2013, but I think given that
16 the panel was on 11 February 2014, do you think that's
17 perhaps a typo?

18 A. I think it's a typo, yes.

19 Q. She'd perhaps given a month's notice to resign dated
20 17 January 2014?

21 A. (Witness nods)

22 Q. The social worker says:

23 "However, prior to the carer handing in her
24 resignation, my recommendation for the panel was that
25 she be de-registered ..."

1 A. (Witness nods)

2 Q. If a foster carer does that, they know that the
3 recommendation is that they're going to be de-registered
4 and they resign, does the panel still go ahead and
5 consider the circumstances?

6 A. Yes, the panel still goes ahead and makes
7 a determination in terms of the registration.

8 Q. Okay. If we go on to page 3, at the top of the page the
9 social worker says:

10 "As a result of these concerns I produced a report
11 for the panel in which my recommendation was for
12 de-registration. In addition to my report and in line
13 with practice guidance, an independent report was
14 requested from a team leader from another locality due
15 to concerns regarding the number of concerns and
16 allegations relating to the foster carer's practice."

17 It then notes:

18 "This report recommended that no children should be
19 placed with her unless she undertook training in the
20 specific areas highlighted and she was then able to
21 demonstrate that she had an in-depth understanding of
22 the concerns raised. If she was unable to do that, then
23 she would be de-registered."

24 Does that remain a procedure that if there's
25 a recommendation that a carer be de-registered,

1 an independent -- well, an independent report from
2 somebody else within the Local Authority --

3 A. Yes, generally, absolutely. And again it's about that
4 impartiality and that ability to look through it from
5 a different perspective.

6 Q. Here there were concerns regarding the number of
7 concerns and allegations relating to this foster carer's
8 practice. What were the nature of those concerns? Was
9 it the fact that there were so many of them that they
10 had a cumulative effect?

11 A. I think it was about quality of care, lack of care.
12 I would put the context of neglectful behaviour in
13 there. Children being unmonitored and basically
14 bumps -- things happening and specifically -- I don't
15 want to cut too far across, but obviously resulted in
16 a child protection investigation following an allegation
17 about conduct towards a child in the placement.

18 Q. If we go on to page 6, I think we see the independent
19 report there.

20 A. (Witness nods)

21 Q. At the bottom of page 6 it begins to say that she'd been
22 very child-centred, it looks as though she'd been
23 a foster carer since 2005?

24 A. Yes.

25 Q. To begin with things were going well, but then it says

1 that there had been a shift in her approach since 2011
2 which is evidenced in the records. Then it talks about
3 various issues that you've mentioned: lack of
4 supervision, removing ladders from a bunk bed with
5 a child falling and hurting themselves, a child being
6 left unsupervised and having a nosebleed, it continues.
7 Then it says:

8 "The latest incident where a child burnt their
9 fingers, this incident became a child protection
10 investigation and the child was removed from her care.
11 The supervision notes show that the carer did not always
12 take responsibility for these incidents and her lack of
13 insight as to how her care was not good enough was
14 evident."

15 I think that's a summary of the issues that you are
16 aware of?

17 A. Yes, yes.

18 LADY SMITH: Stuart, I think I'm right in saying she was
19 aged 60 when she first became a foster carer?

20 A. Yes, yes.

21 LADY SMITH: And handed in her resignation when she was 68?

22 A. Yes.

23 LADY SMITH: Is that at the older end of your range of
24 foster carers in the Borders?

25 A. Yes, it is.

1 LADY SMITH: Unusual?

2 A. Quite unusual. That's not really a very good answer.

3 I suppose we do have some older carers who have been

4 fostering for a number of years, but we -- obviously the

5 training and input has changed quite significantly over

6 the years and again it's constantly assessed in terms of

7 actually their ability, willingness and capability of

8 being able to provide good quality care to our children

9 and young people. So it's something that remains under

10 review, but in this particular circumstance, that was at

11 the older end of the scale.

12 LADY SMITH: Thank you.

13 MS INNES: If we move on to page 7 and the second paragraph

14 there, mention is made of a further concern being that

15 in the early years of fostering she would attend all

16 training offered and felt that she benefitted from the

17 training. It says:

18 "In the latter years she refused to attend training

19 outside of the Scottish Borders so she has been limited

20 in the courses she can attend. This may have affected

21 her ability to provide appropriate care for the children

22 in her care as training is vital for updating and

23 refreshing knowledge and skills."

24 Obviously there's some criticism of her not

25 attending training. However, it's saying that that

1 training is outside the Borders, so would that
2 potentially not be an issue for her? If she's looking
3 after children in the Borders, she's got her caring
4 responsibilities, and then the Local Authority are
5 expecting her to go outwith the area for training?

6 A. It could be. Again, it depends on the nature of the
7 placements at any given time that a carer has and we
8 would always be looking to make sure that there was
9 adequate support for other arrangements for children,
10 for example.

11 I think what's being referred to there -- well,
12 I know what's being referred to there is not something
13 that would be, for example, an overnight somewhere else.
14 It is basically during the day and the geography within
15 the Borders is not the easiest to be able to navigate in
16 terms of attending out-of-authority training without it
17 being a bit longer. But that being said, clearly her
18 not being able to attend training is an issue that would
19 have to be looked into quite carefully in terms of the
20 children in her care.

21 LADY SMITH: What training is provided for foster carers
22 that's beyond your boundaries?

23 A. There are some I suppose shared arrangements, for
24 example, with East Lothian, Midlothian, where we may do
25 a collaboration in terms of -- again, it's about

1 economies of scale to be honest in terms of how we can
2 deliver good quality training to foster parents.

3 Also we've found it's quite useful for them to
4 actually have an interface with carers from other areas
5 in terms of their experiences.

6 Generally speaking, most of it's in house, it's
7 within the Scottish Borders. We tend to purchase
8 training where it's required to come in or indeed run by
9 ourselves in the Borders and make that as accessible as
10 we possibly can within the context of the Scottish
11 Borders area.

12 LADY SMITH: I noted you said there that it would give
13 foster carers the opportunity to meet up with foster
14 carers from other Local Authorities --

15 A. Yes.

16 LADY SMITH: -- and feel they're part of a bigger network.

17 A. Absolutely.

18 LADY SMITH: I can see the value of that potentially. Thank
19 you.

20 MS INNES: If we scroll down towards the end of this page,
21 there's recommendations for practice. There's obviously
22 a recommendation in relation to the foster carer
23 specifically. At (ii) it says:

24 "A chronology should be kept on all foster carers --
25 as the latest report for the fostering panel raised no

1 concerns regarding the foster carer's care. It was not
2 until the latest incident occurred that a chronology was
3 compiled and all the concerns over the last few years
4 were noted together."

5 A. (Witness nods)

6 Q. That seemed to be an issue that issues weren't being
7 raised at the fostering panel and that a chronology was
8 needed. Is that something that you put in place after
9 this?

10 A. It's something that was put in place and it's still --
11 it's an ongoing evolving -- I think in the wider context
12 of children's services, the use and function of
13 chronologies and the really quite vital role that they
14 can play in identifying significant events in a child's
15 life. Similarly, how that reflects for a chronology of
16 events for a foster carer where, for example, you have
17 events where allegations are made or something has
18 happened in the context of being a foster carer is
19 recorded in that chronological format, yes.

20 Q. I think looking at the date of this report, this was at
21 the end of 2012 although we know that ultimately she
22 didn't go to a panel until 2014.

23 A. Mm-hmm.

24 Q. You have told us in your response that you developed
25 a policy in relation to multiple concerns or

1 allegations. I'm assuming, given the timing of that
2 report and the policy which I think you told us was
3 implemented in January 2014, that that was a result of
4 what happened in this case?

5 A. Yes.

6 Q. Okay.

7 I'd like to move on to ask you about some of the
8 evidence that has been led over the course of this case
9 study. I think in your folder at the second tab
10 there'll be a small table with the names of the
11 applicants and their pseudonyms? It should be maybe at
12 the second tab in the folder.

13 A. I don't seem to have a table.

14 LADY SMITH: Just a list?

15 MS INNES: Okay, I think we might be able to manage it,
16 because there's only two.

17 A. Okay.

18 Q. And I think that you'll --

19 A. Okay.

20 Q. -- know who I'm talking about.

21 A. Yes.

22 Q. On Day 295, 14 June 2022, a statement was read in from
23 an applicant with the pseudonym 'Agnes'.

24 A. Okay.

25 Q. We know that she was placed in foster care with people

1 in Rothesay, I think?

2 A. Yes.

3 Q. I think you've had an opportunity to read her statement
4 and reflect on it. What were your reflections from
5 reading that statement?

6 A. My reflections were I was quite appalled by what I read.
7 Quite clear to me that this young person was I think the
8 term is boarded-out. My recollections are there was
9 very limited or not able to identify where there was
10 a degree of responsibility and accountability for that
11 child in the placement they were in and that's before we
12 get to the point of the conditions and what she was
13 subjected to from her statement in that placement.

14 I found it very difficult to read, if I'm totally
15 honest. She experienced things that young people or any
16 child or young person shouldn't have to experience. And
17 my main reflection was it almost felt cast adrift. It
18 was out of sight, out of mind I suppose would be the
19 terminology I was -- I would use. And the lack of
20 records or the scant records that were available really
21 was quite sobering, to be honest, in terms of what that
22 must have been like for that child in those
23 circumstances.

24 But generally I'm just quite appalled, really, at
25 the way in which that entire set of circumstances was

1 handled and the lack of support to a young person in
2 those circumstances.

3 Q. The other applicant, whose evidence I know that you've
4 looked at, was an applicant [REDACTED]

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 A. [REDACTED]

16 Q. I'll take you to some of those records in a moment.

17 Again, do you have any reflections on [REDACTED] [REDACTED]
18 [REDACTED] experience before I go to the records?

19 A. Yeah, I would again reflect shock and disappointment and
20 horror, really, in terms of the number of placement
21 moves. The impact on attachment relationships was quite
22 stark. You know, I'm really quite horrified looking at
23 the number of different changes to care placement that
24 [REDACTED] experienced, and that's before you even consider
25 the educational changes that took place to compound that

1 as well as the relationships.

2 Again, very difficult to read would be my reflection
3 and quite horrified, really, at his experience.

4 Q. [REDACTED] evidence about a particular placement and we
5 have some records from that which, as I say, I know that
6 you've had a look at.

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9 A.

10 Q.

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[REDACTED]

I think this may have been a discussion between the foster carer's social worker and the child's social worker perhaps, and do you have any reflection on that initial view that was taken not to take any further action?

A. On the basis of the information that's there, I don't agree with the action they took, to be perfectly honest with you.

I am also drawn to the fact that it's said -- I think it said "another", which indicates one preceding that.

So certainly reflecting that in current practice, anything of this nature would result in a referral to child protection -- sorry, where physicality's been used on a child. Yes.

Q. The next entry if we scroll down, [REDACTED] discussion with somebody who is described as a senior social worker child protection:

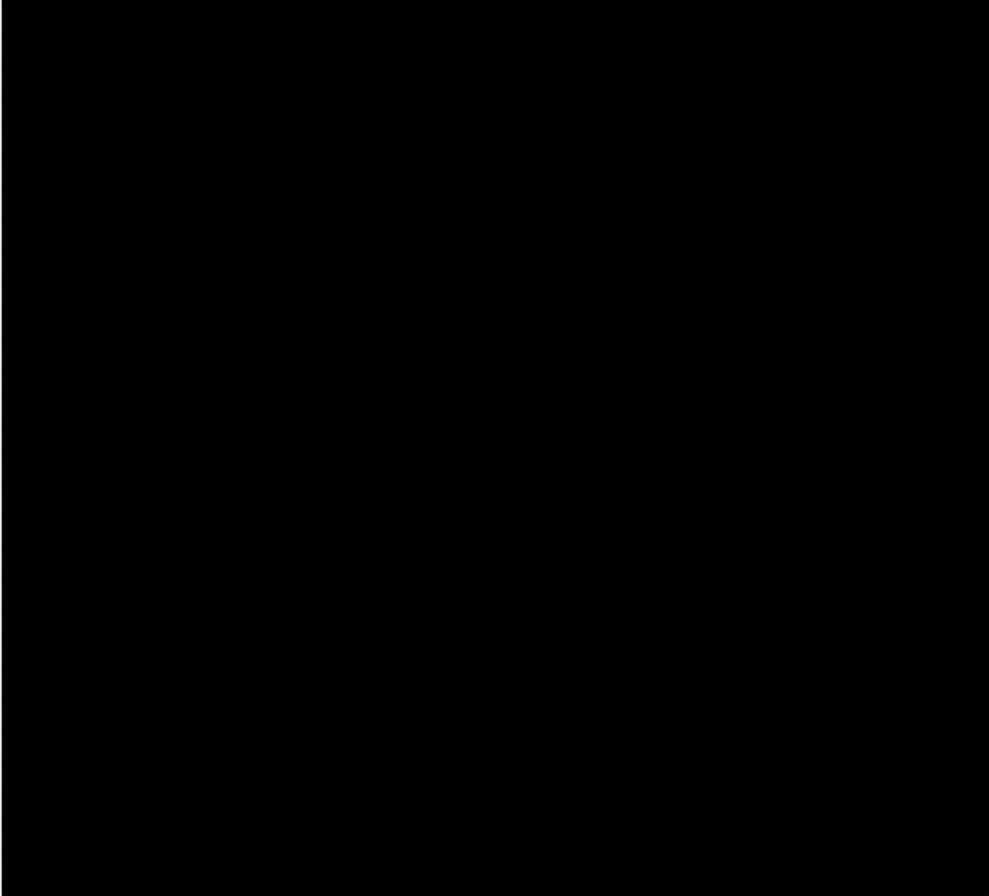
[REDACTED]

1 The answer seems to be: record it.

2 I notice you're shaking your head there.

3 A. Yeah. Again I can only reflect in terms of what
4 practice would be now, is that actually it wouldn't just
5 be a case of it would be recorded. It would probably
6 lead to inter-agency referral discussion where again
7 a child has been struck.

8 Q. Then if we can move on to another record, 

9 

25 What's your reflection on that?

1 A. Again, just reflecting current practice that actually
2 you've had a report of an incident where a child has
3 been hit. Regardless of whether it's an allegation or
4 anything else, the fact is that you would act on that
5 information and you wouldn't just record it or defer it
6 for another visit with someone else going later on. It
7 would be acted upon immediately.

8 LADY SMITH: The next visit isn't going to take place for
9 almost two weeks.

10 A. Yes, exactly.

11 MS INNES: Then over the page we see --

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24 It seems to be that at the same time as there's
25 discussion of this behaviour, there's consideration of

1 approving them as community carers?

2 A. Yes.

3 Q. Do you think that's an issue as well?

4 A. Well, yeah, very much so.

5 Q. If we go down to the bottom of the page, [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 What are your reflections on that?

17 A. I'm ... I ... yeah. I -- I'm just horrified, really,
18 that it just seems to be narrative to give a rationale
19 as to physically hitting a child. And I find it quite
20 hard, to be honest with you, to read that.

21 And again my reflection would be anything of this
22 nature reported in this way would be straight through to
23 child protection and would be looked at through the eyes
24 of an inter-agency referral discussion.

25 Q. Then the next paragraph refers to an injury that [REDACTED]

1 had suffered [REDACTED]

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13 The decision seems again to have been not to invoke
14 child protection procedures but rather to support the
15 child and the carers?

16 A. Yes, that's my reading of it as well.

17 Q. Then finally [REDACTED]

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22 A.

23 Q.

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14 Again, I know that you have some views in relation
15 to what's said here, I think particularly with reference
16 to assault?

17 A. The language -- this constitutes, it's written down as
18 an assault on a child and to say that the circumstances
19 of the incident are to be considered on their merits,
20 it's child protection. There's not a debate as far as
21 I'm concerned. In terms of current practice it wouldn't
22 be debated, it wouldn't be looked at on its own merits.
23 That's why we have that system in place, to ensure that
24 children are safeguarded and protected.

25 LADY SMITH: There's no doubt your child protection

1 procedures will look at -- I wouldn't call them its own
2 merits, but they will look at the whole facts and
3 circumstances --
4 A. Of course.
5 LADY SMITH: -- of what happened?
6 A. Absolutely, and --
7 LADY SMITH: It's for them to --
8 A. -- through a multi-agency lens also.
9 LADY SMITH: Mm.
10 MS INNES: If we can look back to SBC-000000015, page 40.
11 This is the Part B of the Section 21 notice, which is in
12 relation to acknowledgement of abuse.
13 At paragraph 3.1 you note that, yes, you know that
14 children cared for in foster care in the Scottish
15 Borders and its predecessors were abused.
16 A. Yes.
17 Q. You accept that?
18 A. Yes.
19 Q. If we move down to 3.2, at 3.2(a) the question is posed:
20 "Does the Local Authority accept that its systems
21 failed to protect children in foster care over the
22 relevant period from abuse?"
23 The answer given is:
24 "The Local Authority do not consider that this would
25 be a suitable inference to draw based on the information

1 available."

2 I wonder if, having reflected on the evidence that's
3 been given during the course of the case study and on
4 matters further, whether you've any different view in
5 relation to that?

6 A. Very much a different view. We certainly do accept that
7 systems failed to protect children in foster care in
8 Scottish Borders Council care or its predecessors.

9 Q. What sort of failures have you identified?

10 A. There's a variety of failures that have been identified
11 in terms of record-keeping, for example, but clearly
12 some of the practice that used to take place in terms of
13 boarding out, children not being supported, the voice of
14 the child being almost non-existent, the frequency of
15 moves, there's a catalogue of them. You know, the fact
16 that actually I've -- there is a document which actually
17 uses the term "assault" of a child to be looked at on
18 its own -- I find that really difficult to
19 interpret/understand. It certainly is not something
20 that would be even remotely considered or tolerated in
21 current practice, but it's very difficult to see.

22 It's that bit about the voice and the needs of the
23 child are paramount. That child needs to be the centre
24 of everything that's happening and the child needs to be
25 heard if the child has got something to tell us.

1 But certainly looking at the case examples and also
2 reflecting on the fact that we -- because of the lack of
3 information from historical records, it's very difficult
4 to ascertain the true scale and scope.

5 Again, the Local Authority recognises that, but
6 clearly ongoing developments and lessons that need to be
7 learned, but I've been quite shocked by some of what has
8 been found as we go -- look back the way, and the need
9 for us to continue to keep children at the centre of
10 everything that we're doing.

11 Q. Then over the page at page 41 and paragraph 3.3(a), in
12 answer to the question, "Does the Local Authority accept
13 that there were any failures or deficiencies in its
14 response to abuse and allegations of abuse over the
15 relevant period?"

16 The answer given at the time of the response was:

17 "The Local Authority do not consider that this would
18 be a suitable inference to draw based on the information
19 available."

20 Now, standing what you said, particularly for
21 example in relation for example to [REDACTED] case where
22 child protection procedures should have been invoked,
23 that would be a failure in response to abuse?

24 A. Yes. Yes.

25 Q. I think you'd review your answer in relation to that as

1 well?

2 A. Definitely, yes.

3 Q. Beyond the matters that we've discussed in your
4 evidence, I don't know whether you have any other
5 reflections on lessons to be learned and changes that
6 should be made? Or perhaps we've covered them in your
7 evidence already?

8 A. Yeah, apologies, I do tend to talk, but no, it just --
9 I think some of the opportunities that are available and
10 that drive to make sure the children are at the centre
11 of everything that we're doing and that includes the way
12 in which services are designed and scoped, but that
13 voice needs to be around the table. We need to be
14 listening to what our care-experienced young people are
15 telling us.

16 And there are certain policy drivers at the moment
17 which are hopefully going to make that -- not so much
18 easier but a more defined opportunity for young people
19 to have their say and certainly doing things a lot more
20 now than what we've ever done, with the development of
21 Champions' Boards for young people.

22 I could probably talk for a day and I won't, you'll
23 be delighted to know, but there are some real lessons
24 about -- again just reiterating some of the stuff that
25 I've already mentioned, but I've found it quite

1 difficult to see some of that documentation from
2 previous but also not so previous, and the lack of
3 accuracy.

4 So, yeah, I won't go any further in terms of my
5 reflections other than just really sorry about the
6 experience that some of these young people have had.

7 MS INNES: Thank you very much, Stuart. I have no more
8 questions for you.

9 There are no applications, my Lady.

10 LADY SMITH: Thank you.

11 Are there any outstanding applications for questions
12 of Stuart?

13 Stuart, that completes everything we have to ask you
14 this afternoon. Thank you again for coming here today,
15 for providing the documents you have, and for being able
16 to go back and review some of the responses and alter
17 your position as frankly as you have done. I really
18 appreciate that and if I may say, it's an entirely
19 appropriate way to proceed, given our fundamental
20 interest in the welfare of children.

21 I'm now able to let you go and I'm sure you're glad
22 about that and I hope you have a safe journey home.

23 Thank you.

24 A. Thank you.

25 (The witness withdrew)

1 LADY SMITH: That takes us to 4 o'clock, Ms Innes.

2 MS INNES: It does, my Lady, and tomorrow we have evidence
3 from witnesses, two witnesses in the morning giving
4 evidence together from East Lothian and then a witness
5 from West Dunbartonshire in the afternoon.

6 LADY SMITH: Thank you very much.

7 I'll rise now until 10 o'clock tomorrow morning.

8 (4.01 pm)

9 (The Inquiry adjourned until 10.00 am on
10 Friday, 4 November 2022)

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