

The Report of the Inquiry into the Removal of Children from Orkney in February 1991

Return to an Address of the Honourable the
House of Commons dated 27 October 1992

*Ordered by the House of Commons to be printed
27th October, 1992*

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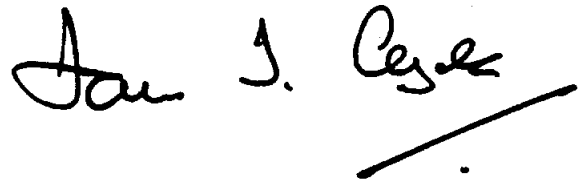
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The Right Honourable Ian Lang, MP
Secretary of State for Scotland

Dear Secretary of State

On 20th June 1991 you appointed me to conduct an Inquiry into the actions of the agencies involved in the matter of the removal of nine children from Orkney in February 1991. I now submit my report and recommendations.

Yours sincerely

A handwritten signature in black ink that reads "James J. Clyde". The signature is written in a cursive style. Below the signature is a long, horizontal, slightly wavy line.

JAMES J CLYDE

31 July 1992

THE REPORT OF THE INQUIRY INTO
THE REMOVAL OF CHILDREN FROM
ORKNEY IN FEBRUARY 1991

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PART ONE
INTRODUCTION

I THE PUBLIC INQUIRY

1.1 This Report is in five parts. Part One is introductory and deals substantially with the Remit and the course of the Inquiry. In Part Two I set out the facts which I have found relative to the subject matter of the Remit. In Part Three I make certain comments and criticisms regarding those facts and in Part Four I explore certain matters with a view to making recommendations for the future. Part Five consists of a single chapter in which I seek to summarise the Report. I have sought to do this in a way which would enable that Part to be published by itself as a short form of what is necessarily a long Report. But I should stress that it is in many ways unsatisfactory to proceed solely on that Part and that a full understanding of the short summary requires the accompaniment of the earlier discussion.

1.2 On 27th February 1991 nine children of four families residing in the island of South Ronaldsay in Orkney were removed to places of safety by social workers acting under the authority of Orders granted under Section 37 of the Social Work (Scotland) Act 1968 with the assistance of members of the police force. The families were referred to at the Inquiry and are referred to in this Report as the B's, the H's, the M's and the T's. The removal of the children followed on certain allegations made during interviews with children of another family and that family is referred to as the W family. The matter was referred to Children's Hearings and the children were detained until 4th April 1991 when following a decision in the Sheriff Court that the proceedings to prove the grounds for referral were incompetent and before the evidence was led they were returned to their homes. The Reporter subsequently won an appeal against the Sheriff's decision but decided to abandon further proceedings in the Sheriff Court to prove the grounds.

1.3 The whole matter gave rise to some public concern and on 20th June 1991 I was appointed to conduct an Inquiry in accordance with a remit formulated in the following terms:-

‘To inquire into the actings of Orkney Islands Council (in particular those of their Social Work Department and of their Reporter to the Children's Panel for their area), of the Northern Constabulary and of all persons acting on behalf of either of them, and into the effect on those actings and the attendant publicity in relation to:

- (1) the decision to seek authority to take to a place of safety nine children resident in South Ronaldsay;
 - (2) the removal of those children from their homes on 27th February 1991;
 - (3) the detention of those children in places of safety following the removal and until returned to their homes (and in particular how they were cared for and interviewed while so detained);
 - (4) the decision not to continue proceedings before the Sheriff for a finding on the evidence;
- and to make recommendations.’

1.4 To assist in the Inquiry I appointed as my Assessors Miss Anne Black, then a Divisional Director of the Lothian Social Work Department, and Dr Hugh Morton, Consultant in Child and Adolescent Psychiatry with the Tayside Health Board. I cannot overstate my appreciation of the support and assistance which I have enjoyed from both of them. They have spent many hours over weekends and at inconveniently early and late periods of the day in addition to the whole periods of the public hearings with a view to securing that this Report should be produced as expeditiously as possible. Their patience and painstaking dedication to the work of the Inquiry has been exceptional and I owe a very great deal to their wisdom and experience in the assessment of the evidence and the preparation

of the comments and recommendations. I should acknowledge their contribution particularly in relation to the matter of the interviewing of the children. However the responsibility for this Report remains solely mine.

1.5 I appointed Mr Donald Macfadyen QC and Mr Alan Dewar, Advocate to be Counsel to the Inquiry and I should record my gratitude to them for their able assistance and advice. Mr George Aitken acted as Clerk to the Inquiry with Miss Christine Robertson as Personal Secretary and Miss Anne Costello as Assistant Clerk. I must record my gratitude to each of them for securing the efficient administration of the sittings, dealing with the substantial correspondence and organising the sometimes anxious matter of transport between Edinburgh and Orkney. Their work has extended beyond the periods of the sittings and I must in particular thank Miss Christine Robertson for her skilful efficiency in the preparation of repeated clean drafts and final text which has enabled this Report to be produced without undue delay. I should also record my gratitude to Mrs Janice Dickson and Mr George Molyneux who as ushers and general assistants secured a smooth running of the daily hearings. The work of the Inquiry was greatly helped by the provision of daily transcripts by Verbatim to whose staff and to all others who assisted in any way in the Inquiry my thanks should also be recorded.

1.6 On 3rd July 1991 I held a Preliminary Hearing in the Town Hall, Kirkwall. I admitted as parties to the Inquiry the various individuals and bodies listed in Appendix 1 to this Chapter. In that appendix I have included the names of the counsel and instructing agents acting for the parties. Some changes of representation occurred between the start and the conclusion of the whole proceedings and I have simply listed those who principally appeared without detailing the particular periods for which individuals were involved. It should be recognised that the work of the counsel and agents representing parties was of very real value in clarifying the many issues arising in this complex Inquiry as well as protecting the interests of the various parties who deserved to be represented. Their work materially contributed to an understanding of the whole matter under review and I should record my gratitude to them for their assistance throughout the Inquiry and in the full submissions which they prepared at its close.

1.7 Between 26th August 1991 and 25th March 1992 I heard evidence on the matters relative to the Remit. The hearing was conducted within the Town Hall in Kirkwall except for two visits, one to the premises of the Social Work Department and one to the homes of each of the four families with a view to obtaining a greater understanding of the evidence so far as it related to these particular premises. By agreement of parties the evidence of some witnesses was taken on affidavit. A list of the witnesses is set out in Appendix 2 to this Chapter. I adjourned the Inquiry on 25th March 1992 in order to enable parties to prepare written submissions which were tendered by the beginning of May. On 5th and 6th May 1991 I heard oral submissions from certain private individuals and organisations and on the following week I heard brief oral submissions from the parties under reference to the written submissions which they had presented. The public proceedings were concluded on 13th May 1992.

1.8 It had been directed that the Inquiry should be held in public except when I should decide that, in order to protect the interests of the children involved, it should be held in private. In the event nearly the whole of the Inquiry was held in public. Reference was made to the children and to their parents by initials and every effort was made in the leading of evidence and on the part of those reporting it to preserve anonymity at least so far as was practicable. The visits to the houses of the four families was treated as a private part of the Inquiry and a video film of an interview was also viewed in private. A considerable number of tape recordings of various interviews held with children which were relevant to the Inquiry were lodged as part of the evidence. The Assessors and I were able to listen to these tapes at times outwith the public hearings so as to enable us to have an understanding of evidence which was given about them and also to enable reference to particular passages in the interviews to be made by reference to transcript and so avoiding the playing of any of the tapes during the hearing.

1.9 I was anxious to hear the evidence of the nine children involved but I was concerned not to expose them to the experience of being questioned and cross-questioned by parties to the Inquiry. I accordingly appointed Dr John Christopher Powell, Consultant Child and Adolescent Psychiatrist of the Crichton Royal Hospital, Dumfries to interview all the children in their own homes and enable their evidence to be relayed to the Inquiry through him. He undertook this work during the course of the Inquiry talking to each of the children separately encouraging them to speak spontaneously but adopting a question and answer technique when that seemed appropriate. He planned a variety of specific matters which he sought to cover during the course of each interview. He allowed the parents but not the siblings to be present at each of the interviews and had the full co-operation of the parents in every case. In some cases the parents were present during the interviews themselves. He met the parents in advance and explained his function and answered such questions as they had. He later prepared a report and gave evidence to the Inquiry of the substance of what each of the children had said and he was open to cross-examination on that. The evidence usefully reflected the children's perceptions and recollections of their experience although as was to be expected there were discrepancies in some matters of detail especially in relation to the joint interviews which the children had undergone during the period that they were in places of safety.

1.10 The removal of the children of the four families had been prompted by allegations of organised sexual abuse which were said to have involved the four families. I was however not required within the terms of the Remit to investigate the truth or falsity of those allegations. This was a matter sometimes misunderstood by some and complained about by others. A delicate distinction then had to be preserved in relation to evidence which could from one point of view be seen as relating to the truth or otherwise of the allegations but which was on the other hand relevant to an exploration of the reasons for the actings of the agencies which were the subject of the Inquiry. Such evidence was relevant as reflecting the beliefs of the persons carrying out those activities. Whether the beliefs were true or not had to be left as a distinct and unresolved question. That delicate distinction had to be recognised in the evidence throughout the Inquiry and some care had to be taken to stress that any references made to organised abuse involving the nine children were always intended as references merely to alleged abuse. The matter was the more sensitive when it became apparent that although the Crown had indicated that there was no intention to pursue the earlier criminal investigation it was stated that certain other police investigations were still proceeding so that there was a practical necessity to steer clear of matters which might yet require to be examined in another context. The substance of the allegations was not explored and the adults identified in them were and remain entitled to rely on the basic presumption of innocence.

1.11 It was regretted by some witnesses that the allegations in question had not been the subject of judicial decision and the matter which had caused the four families the greatest anxiety had not been set at rest and would not be set at rest by this Inquiry. There had been an opportunity for the matter to have been explored fully in the Sheriff Court proceedings had the parents been so determined to have the facts explored. By insisting on a plea to the competency of the proceedings they risked the case being thrown out without a full presentation and examination of the facts. While some of them initially did not wish that risk to be taken the cases were conjoined and so they were carried along with the others to a result which later came to be regretted. Orkney Islands Council shared that regret but they were not a party to the proceedings and were unable to argue that the plea to the competency was ill-founded.

1.12 Another area into which I have not felt entitled to enter is the effect which any of the actings which were the subject of the Inquiry might have had on any of the nine children involved. An assessment of that matter necessarily involves an assessment of the children themselves and that would involve trespassing on the area of the substance of the allegations. I have accordingly made no findings on that matter.

1.13 I considered it appropriate to start the public proceedings at the earliest practicable date although at that stage, particularly with the intervention of summer holidays, it had only been possible to take statements from a few of the long list of potential witnesses eventually identified. This also meant that it was difficult to forecast with confidence what the length of the Inquiry would be. I am grateful to all those who were engaged in the lengthy and time-consuming work of taking statements, a task which continued over a considerable period of the Inquiry.

1.14 In relation to Part Two it may be useful to point out that so far as concerns the four matters set out in the remit in relation to which the actings of the various agencies required to be studied, the facts relating to the first matter (the decision to seek Place of Safety Orders) are contained in Chapter 2 read against the content set out in Chapter 1; the facts relating to the second matter (the removal of the children) are set out in Chapter 6 with a narration of the preparatory work of the agencies in Chapters 3, 4 and 5; the facts relating to the third matter (the detention of the children, how they were cared for and how interviewed) are contained in Chapters 7 to 12, 7 and 8 dealing with the aspects relating to their detention so far as the work of the agencies in Orkney were concerned, 9 and 10 dealing with the situation in the Highland and Strathclyde Regions where the children were located and Chapter 11 dealing with the interviews. Chapter 12 contains the facts about the return of the children to their homes and also sets out the facts relating to the fourth matter, (the decision not to continue the proceedings before the Sheriff) as well as the effect of the publicity.

1.15 I received very considerable co-operation from the parties on the production of their records. Some relating to discussion with his legal advisers were withheld by the Reporter for reasons of confidentiality. The necessity to make available every relevant record from every possible source was not universally appreciated at the outset and it was only after the Inquiry had started that a very considerable archive accumulated. Some stray records indeed continued to emerge at later stages. I should record my gratitude to those who researched a very substantial number of files to locate and make available the documentary evidence which was eventually presented. Some of the police records required to be restricted for reasons of confidentiality as relating to concerns of criminal prosecution or other matters which were outwith the scope of the Inquiry.

1.16 Some areas of fact proved difficult to clarify as even in the period of months since the events witnesses' recollections had become uncertain or faulty. The absence of complete and accurate contemporary written records added to the difficulty but some illumination was unexpectedly discovered by the finding of certain personal jottings and notes during the course of the Inquiry. Records which seemed to be full were found in some respects to be inaccurate or inaccurately dated and some contemporary jottings on which later reports had been based were lost. Understandably some witnesses had discussed the events among themselves so that some recollections may well have been coloured by subsequent discussion.

1.17 In relation to Part Three it has to be remembered that many of the events which occurred and the decisions which were made happened in an atmosphere of very considerable stress and anxiety. Moreover the whole events directly covered by the Remit extended over a period of less than two months. A detailed analysis carried out with the benefit of hindsight can readily lead to an unfair assessment of what was happening under the pressures of the moment and criticism requires to be tempered to allow for the benefit of hindsight and the calmer setting of a retrospective study. It is only too easy to be critical of those who often have delicate decisions to make and are liable to attack either if they take positive action which is later found to be without true cause or refrain from acting and a child's welfare is thereby prejudiced. At the very least it can be said in the present case that all the staff and officials involved in the actings under review acted in good faith. There is little advantage in the production of repeated reports or judgements which heap criticism on agencies, particularly the social work agency, without constructive proposals. The purpose of comments is principally to acquire better instruction for the future and for that reason I have to some extent deliberately sought to de-personalise criticism. The isolation of individuals would in any event

in many cases be unfair where the same criticism can be made in relation to a number of those involved. I have generally referred to the Social Work Department rather than the Orkney Islands Council but it is not to be forgotten that the former is but a Department of the latter and the references should be understood as including the Council and their Social Work Committee. So far as the Department is concerned the responsibility lay with the management rather than the field workers.

1.18 With a view to obtaining an objective opinion on the management and conduct of the interviews with the nine children and after consultation with the representatives of the parties to the Inquiry I asked Dr Judith Trowell, M.B.B.S., D.C.H., D.P.M., F.R.C.Psych., currently a consultant psychiatrist at the Child and Family Department of the Tavistock Clinic in London to undertake a study of the many tapes and transcripts of those interviews, to submit a report and to give evidence at the Inquiry. All of that she did and in addition attended for part of the evidence given by the interviewers. Her views and opinions on the interviews have been of very real assistance and I should record my gratitude to her for the considerable labour which she undertook in the interests of the Inquiry.

1.19 In the final submissions different approaches to the matter of criticism emerged. On the one hand the Orkney Islands Council for example restricted their criticisms in the hope of receiving a positive and conciliatory response from the community. On the other hand the four families forcefully argued against any conclusion that the actions of any of the agencies involved were justified. As I stated at the Preliminary Hearing and again at the conclusion of the Inquiry while comment and criticism may have to be made my concern has been to establish the facts relative to the Remit for future benefit rather than past recrimination and while I have later in this Report sought to highlight matters of adverse comment that has been done principally for that positive purpose.

1.20 In Part Four the recommendations are collected under various titles so as to group them by subject matter. The question was raised during the Inquiry as to the precise range of material to which recommendations should relate and I took the view that advantage should be taken of the Inquiry to encourage ideas for improvement even although they did not immediately relate to points of criticism of the particular actings into which the Inquiry was investigating provided that they were still connected with the subject matter of the Remit. Some points were raised which were not matters of detailed debate or discussion and on which it is accordingly inappropriate to make firm recommendations. I have sought to record most of those points so that they can be taken up for further consideration elsewhere.

1.21 I received a number of written submissions from individuals and organisations anxious to assist in the work of the Inquiry. A list of these is set out in Appendix 3 to this Chapter. I have not included in this list a considerable number of other individuals who wrote to me expressing their interest in the Inquiry and in some instances enclosing informative material relating to matters of child abuse. I should record my gratitude for the time and trouble which all the contributors of these documents have taken. Some of them were concerned substantially with matters of the merits of the allegations and to the extent that they were dealing directly with that matter I have not regarded them as relevant to the Inquiry. Some of them reflect the very real fear, anxiety and bitterness felt by members of the local community at the action which was taken by the local authority. A considerable number of the submissions concerned matters which were within the Remit and they have been of very real assistance in the preparation of recommendations and for the effort and interest which their authors have shown I am very grateful.

1.22 The case of the nine Orkney children is in some respects special. For example it concerned a large number of children, the community from which they came was to a degree isolated, the allegations of abuse came from outwith the four families concerned, there was a relative lack of available local resources, and there was a very considerable media attention paid to the matter. It is not to be forgotten that considerable numbers of cases pass through place of safety procedures and Children's Hearings without attracting major criticism and one has to be careful

not to seek changes to a system which may work well in many other circumstances simply because things may seem to have gone awry in this one particular instance. But while sight of that consideration is not to be lost the Inquiry did throw up some matters which are of a wider relevance and concern and provided an opportunity to enable wider questions to be canvassed than those relating to the special circumstances of the particular case. I have endeavoured to take advantage of the Inquiry to enable some exploration to be made of many issues relating to its subject matter in the hope that the energy which has been devoted to the Inquiry's work may have a wider value than a particular study of the events in Orkney.

1.23 One matter of very real concern which emerged at an early stage after the Inquiry had begun was the cost which it could then be seen would be incurred. This was a case where several of the parties were quite without the means to secure their own representation throughout the course of a long Inquiry. The uncertainty whether particular parties could continue to have representation in order to reply to the potential criticisms which could be made against them in public added a further problem to what was in any event a stressful Inquiry. The argument that where in the public interest it is decided that a particular matter requires a thorough and public investigation the cost should come from public sources appears a strong one. While I make no recommendation on the generality of this issue it is a matter which would deserve consideration for the future.

1.24 At the conclusion of the Inquiry Mr Taylor the solicitor acting for the field social workers of Orkney Islands Council and the social workers for Strathclyde and Central regions, thirteen of whom are members of NALGO, moved for a recommendation that the expenses incurred by NALGO should be paid out of central funds. The fourteenth of Mr Taylor's fourteen clients was not a member of NALGO and the expenses there have been met by Strathclyde Regional Council as employer. I understand that all the parties other than the NALGO members were having their expenses paid out of central or local government funds. The motion was made on an extra statutory basis under reference to such precedents as the Kings Cross Inquiry, the Clapham Junction Railway Accident Inquiry and the Piper Alpha Inquiry where awards in favour of various trade unions were made.

1.25 The qualification for Mr Taylor's clients to be parties to the Inquiry were undoubted. Each and all of them were open to some degree of criticism and indeed one of them was exposed to a strong attack from the RSSPCC, an attack which was carried through unabated to the stage of their written submission. It was evident at the outset that these parties required to be represented for their own protection. Mr Taylor attended effectively for that purpose and absented himself from certain periods when the evidence did not touch on matters directly affecting his own clients. His role in the Inquiry was principally to defend his clients from criticism and he assisted in the elucidation of the substantial evidence on the factual history of the whole affair. Having been required to be involved in a Public Inquiry which has been instructed in the public interest there seems to me to be a strong argument in equity that they should be relieved of the expenses which they necessarily and properly incur as a result. I see no ground for modification of Mr Taylor's claim which in a sense he modified himself by his absence at periods when his presence was not essential. While the matter is one for the discretion of the Secretary of State I have considerable sympathy with his motion and recommend its acceptance.

APPENDIX 1 PARTIES TO THE ORKNEY INQUIRY

Counsel to the Inquiry

Mr Donald Macfadyen QC

Mr Alan Dewar, Advocate

Solicitor to Counsel: Ms Jane Ferrier, Office of the Solicitor to the Secretary
of State for Scotland

The Four Families of The Nine Children

Mr Edward Targowski QC

Mr Nigel Morrison QC

Mr John Doohan, Advocate

Mr Ronald Clancy, Advocate

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Orkney Islands Council

Mr Donald S Mackay QC

Mr Gerry Moynihan, Advocate

Director of Administration and Legal Services, Orkney Islands Council
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Mr Paul Lee

Mr Derek Ogg, Advocate

Solicitors—J & A Hastie SSC, 43 York Place, Edinburgh and
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Mrs Susan Millar

Mr Steven MacGibbon, Advocate

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Orkney Field Social Workers, Strathclyde Field Social Workers

Solicitor—Mr James Taylor

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Highland Regional Council/Northern Constabulary/Highland Foster Carers

Mr Graham C Bell QC

Ms Gail Joughin, Advocate

Solicitors—Director of Law and Administration, Highland Regional Council,
Regional Buildings, Inverness

Strathclyde Regional Council and Strathclyde Foster Carers

Mr Malcolm G Thomson QC

Solicitors—Strathclyde Regional Council and

Messrs Simpson & Marwick WS, 18 Heriot Row, Edinburgh

RSSPCC

Mr Hugh H Campbell QC

Mr Ian Truscott, Advocate

Solicitors—Messrs Lawford Kidd, 12 Hill Street, Edinburgh

The Reporter—Mr Gordon Sloan

Ms Lynda Clark QC

Mr Roderick Thompson, Advocate

Mr Edward Bowen, Advocate

Solicitors—Messrs Biggart, Bailie & Gifford WS, 10 Glenfinlas Street,
Edinburgh

The Reverend Morris McKenzie

Mr Graham Robertson, Advocate

Solicitors—Messrs Balfour & Manson, Nightingale & Bell, 58 Frederick
Street, Edinburgh

APPENDIX 2 LIST OF WITNESSES IN ORDER OF APPEARANCE

1. Mr Paul Lee
2. Mrs Mary Finn
3. Mrs Michelle Miller
4. Mr Charlie Fraser
5. Miss Lynn Drever
6. Mrs Julie Lee
7. Miss Anne Donnan
8. Mr Michael Thorpe
9. Mr Ranald Mair
10. Ms Fran Connor
11. Mrs Susan Millar
12. Mr Martin George
13. Mr Rab Murphy
14. Mr Sandy Fraser
15. Mrs Maureen Hughes
16. Ms Rena McCarry
17. Mrs Norma Buchanan
18. D.S. George Gough
19. D.I. Heddle
20. D.Sgt. William Sutherland
21. Sgt. Hilary Hanson
22. Mr M
23. Mrs M
24. Mrs B
25. Mr B
26. Mrs H
27. Mrs T
28. Mr T
29. Mr Jack Goodfellow
30. Mr Paul Hersee
31. Miss Janette Chisholm
32. Dr John McDonald
33. Superintendent John Ratter
34. Dr Linda Hamilton
35. Dr Charles Shepherd
36. Mrs HW (foster carer)
37. Mrs PD (foster carer)
38. Mrs Gwendoline Hamilton
39. Mrs LM (foster carer)
40. Mrs GC (foster carer)
41. Mr Nick Clayton
42. Mrs Susan Brown
43. Mrs Mairhi Trickett
44. Mr Philip Greene
45. Mrs Doreen McLeman

46. Mr Ian Gilmour
47. Mr Sam McTaggart
48. Mr Gordon Sloan
49. Dr John Powell
50. Mr Philip Jackson
51. Mr Fred Kennedy
52. Mrs Liz MacLean
53. Constable Linda Williamson
54. Constable Susan MacLaren
55. Miss Lindsey Stevenson
56. Mr Leslie Hood
57. Constable Pamela Ross
58. Constable Anne Millar
59. Miss Helen Martini
60. Councillor Cyril Annal
61. Dr Evelyne Kirkwood (Affidavit)
62. Mrs JM (Affidavit) (foster carer)
63. Mrs AS (Affidavit) (foster carer)
64. Mrs RN (Affidavit) (foster carer)
65. Mr Niall Campbell
66. Mr James Sinclair
67. Mr David Colvin
68. Mr Angus Skinner
69. Mr James Peoples
70. Mrs Gail Patrick
71. Mrs Jenny Kitzinger (Affidavit)
72. Miss Hannah M
73. Dr Judith Trowell
74. Mr John Chant
75. Mrs Susan MacLaren
76. Mr Paul Lee (recalled)

APPENDIX 3 LIST OF NON-PARTY SUBMISSIONS

ADAMS Rev J D A	—Surrey
ANDERSON Mrs Iris	—Airdrie
ANNAL A T	—Resident of Orkney
ANNAL Mrs Janice	—Resident of Orkney
ASSOCIATION OF POLICE SURGEONS	—Northampton
ASSOCIATION OF REPORTERS TO CHILDREN'S PANELS	
BAIN , Maureen and Ross Flett	—Residents of Orkney
BASPCAN	—Scottish Branch
BASW	
BELL J David	—Ratho
BISSETT-JOHNSTON Professor A	—Professor of Law, Dundee University
BRAY Christopher	—S.A. Legal Fighting Fund
BROADHURST Dr Richard	—General Practitioner, Orkney
BURN Ms Rachel	—Reporter's Department, Tayside Regional Council
BUTCHER B G	—Resident of Orkney
BRITISH PAEDIATRIC ASSOCIATION	—London
CAMPBELL Mrs J P	—London
CAMPBELL Mr J L	—Canna
CHISHOLM Janette	—Retired Social Worker
CLYDE Mrs Iris	—Councillor, Orkney Islands Council
COCKBURN Professor Forrester	—Royal Hospital for Sick Children, Glasgow
CROSSLEY John & Sharon	—Residents of Orkney
CRUICKSHANK Mrs May	—Edinburgh
DIRECTORS OF SOCIAL WORK IN SCOTLAND	—Edinburgh
DRIVER Dr Peter M	—Resident of Orkney
EDWARDS Rev Derek W	—Independent Baptist Minister, Orkney
EWART Carole	—Director Scottish Council for Civil Liberties
HADDER Olwyn	—Resident of Orkney
HASSETT Peter	—Central Council for Education and Training in Social Work (CCETSW)
HAYS Sylvia	—Resident of Orkney
HIGHLAND REGIONAL COUNCIL	—Reporters Department, Inverness
HOGARTH James	—Resident of Orkney
JONES Dr David P H	—Consultant Child Psychiatrist, The Park Hospital for Children, Oxford
KELLY Alastair F	—Regional Reporter to Children's Panel—Fife Regional Council
KEMP Mrs P	—Resident of Orkney

KIRKLAND David	—Resident of Orkney
KUSUMAKAR Dr Vivek	—Consultant Child and Adolescent Psychiatrist, Royal Hospital for Sick Children, Lothian.
LAMONT Jill	—Resident of Orkney
LEIGHTON Ian	—Consultant, Forensic Mental Health
LINNITT Suki	—Resident of Orkney
LIVSAY Mrs L F	—Resident of Orkney
LIVSAY S E	—Resident of Orkney
McARTHUR Mrs Susan	—Resident of Orkney
MacDONALD Dr John	—Chairman, Highland Region Child Protection Committee
MACKENZIE Dr Gilbert	—Senior Lecturer in Medical Statistics, The Queen's University of Belfast
McKIE , Mrs Frances	—Resident of Orkney
MARTIN Mrs Janet	—Surrey
MATHESON Ms Fiona	—Councillor, Orkney Islands
MELLOR Val	—Consultant Clinical Psychologist—Booth Hall Children's Hospital, Salford
MILLAR Kenneth	—Resident of Orkney
MILNS Alastair H	—Resident of Orkney
MORTON Mrs Marion	—Religious Society of Friends
MURPHY Dr I C	—Chief Psychologist, Sheffield Health Authority
NELSON Sarah	—Free-lance Journalist
NICHOLSON Mrs Yvonne	—Resident of Orkney
NSPCC	
OMAND , Elma, and others	—Nurses and Health visitors, Orkney
P.A.I.N.	—Parents against Injustice
PARENT-LINK	—Lancashire
PRESBYTERY OF ORKNEY	—Orkney
PRICE Neil	—Resident of Orkney
RAE John	—Inverness
REGIONAL AND ISLANDS REPORTER'S GROUP	
REID Dr D H S	—St Andrew's
REVIS Mrs Cynthia	—Resident of Orkney
SARGENT Mrs Christine	—Resident of Orkney
SAYLES Mr and Mrs	—Thurso
SCOTT Mrs Jennifer	—Resident of Orkney
SCOTT W E	—Aberfeldy
SCOTTISH CHILD LAW CENTRE	—Glasgow
SILVERSTONE Mrs Linda	—Glasgow
SOUTH RONALDSAY PARENTS ACTION COMMITTEE	
SOUTHALL D	—Recording Clerk, Religious Society of Friends
ST MARGARET'S HOPE SCHOOL BOARD	—Orkney
STEWART A	—Regional Reporter to Children's Panel, Tayside Regional Council
STRATHCLYDE REGIONAL COUNCIL	—Social Work Department
STRUTT C E H	—Resident of Orkney
TAYLOR Mrs Elsie	—Resident of Orkney
THOMPSON Dr W	—University of Reading
THOMPSON Mrs H	—Resident of Orkney

THOMSON L G	—Resident of Orkney
THOMSON Mr B & Mrs S	—Residents of Orkney
THE BRITISH PSYCHOLOGY SOCIETY	—Leicester
THE ROYAL COLLEGE OF PSYCHIATRISTS	—London
WALLACE Jim	—MP for Orkney and Shetland
WHYTE Lorna M	—Resident of Orkney
WOOD Mrs Karen	—Resident of Orkney

PART TWO

THE FACTS

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II THE BACKGROUND

I. The Orkney Agencies

(A) THE ORKNEY SOCIAL
WORK DEPARTMENT

2.1 In February 1991 the Director of the Social Work Department of the Orkney Islands Council was Mr Paul Lee. He had trained and worked in England between 1967 and 1980. Between 1980 and 1985 he held the post of Divisional Social Work Officer with Highland Regional Council in Wick and in June 1985 became Principal of Field and Children's Services which included responsibility for resources for adoption and fostering services. During his career he had had some in-service training in abuse of children generally and had chaired a multi-disciplinary child abuse committee for two years negotiating child abuse procedures while with Highland Regional Council but had had no direct practical experience with sexual abuse since 1977. In February 1990 he moved to Orkney as Director of the Social Work Department.

2.2 At the time of Mr Lee's appointment in February 1990 the Depute Director was a Mr Mackenzie, who retired in October 1990. There were four full time and one part time social workers. There were two administrative staff and four other members of staff with other particular responsibilities not immediately related to child care. Mr Lee set about a reorganisation of the staff of the Department with a view to creating three team leaders, each responsible for a different area of work and each supported by a suitable number of workers. By February 1991 two of the proposed three team leaders had been appointed. One of these was Mrs Susan Millar who had been appointed at the start of July 1990 in respect of child care. In February 1991 the section which dealt with fieldwork and children had five social workers, all of whom by that stage were working full time.

2.3 Mrs Susan Millar took up her post as team leader at the start of July 1990. She had graduated in Social Science in 1984 after doing voluntary social work for about seven years. Before that she had worked with British Gas and with a firm of stockbrokers. She obtained her CQSW in 1985 and joined Lothian Regional Council working with offenders and then as a generic social worker in an area in Lothian where there was a high number of child abuse cases. In November 1989 she became Divisional Assistant for Adolescents and Families in another area in Lothian where she was concerned with a wide variety of work, particularly with young people. Her husband's employment took him to Orkney and, for that reason, she gave up her work in Lothian in June 1990 and joined the Orkney Social Work Department as a Team Leader. Mr Donaldson, the then senior social worker, was in poor health and retired not long after. The Deputy Director retired in September 1990. Mrs Millar had been told by Mr Lee in August 1990 that he was considering appointing her as Assistant Director and she became Assistant Director in the Spring of 1991 but in the meantime required to carry out a number of responsibilities in addition to her work as team leader. Thus her work also included supervision of the occupational therapists and the acting officer in charge of the Camoran (Children's Home) now known as Camoran Children's Resource Centre, but referred to in this Report simply as Camoran. The Department was under-staffed and the level of work required of her, both managerial and in case work, was very substantial.

2.4 The five fieldwork staff were Miss Lynn Drever, Mrs Mary Finn, Mr Charlie Fraser, Mrs Julie Lee and Mrs Michelle Miller. Miss Lynn Drever had graduated in 1983, taken her CQSW in 1987 and worked as a generic social worker with Grampian Region from 1987 to 1989. After travelling abroad she came to Orkney in July 1990 where, after a period as a locum, she joined the Social Work Department working from August 1990 on child care work, especially with teenagers.

She had attended a one day seminar on disclosure work during her time in Grampian Region. Mrs Mary Finn had joined the Orkney Social Work Department in the summer of 1979, after working in London for five years, obtaining her CQSW in 1976. After about two years working with a wide variety of responsibilities she stopped work for a period and then returned to work part-time with the visually handicapped and with children with special needs in which she developed a particular interest. She resumed working full-time in November 1990. Mrs Julie Lee (who was not related to Mr Paul Lee) graduated in Edinburgh in 1982 and acquired a Diploma in Psychiatric Social Work, including her CQSW in 1986. She had worked between 1983 and 1985 in Preston with the mentally handicapped and from 1986 with the Trafford Local Authority where she was concerned with child care work. She joined the Social Work Department in Orkney on 4th February 1991. She had had experience with sexually abused children as a child care worker but was engaged in Orkney with a particular remit for fostering and adoption because of her experience with children.

2.5 Mr Charlie Fraser had obtained a social work qualification at Jordanhill College in 1968 and thereafter worked first as a probation officer with Glasgow Corporation, as a social worker in Lanarkshire and West Lothian and then with Glasgow Corporation and with Strathclyde Regional Council. His in-service training had included some training in child sexual abuse work. He moved to Orkney in 1980, and in 1981 he joined the Social Work Department as a basic grade social worker. Mrs Michelle Miller joined the Orkney Islands Council Social Work Department in January 1988. She had obtained a Graduate Diploma in Social Administration and a CQSW in England and had worked in England in child care before moving to Orkney in 1985. She started work with the Social Work Department in 1988 as a basic grade social worker and on 4th March 1991 became a senior social worker.

2.6 The Social Work Department in Orkney was accommodated in a two storey building which had been built for other purposes but eventually altered internally for office use. It was connected to and communicated with the main Council Offices. It comprised a number of separate rooms of no great size. The rooms were reached by a stair and by passages leading from the main entrance and hallway and, while they were not far apart from each other they were laid out in a way which was not conducive to an overall unity and control. The individual rooms were relatively small and there was little spare space.

2.7 Mr Lee and Mrs Susan Millar each had a room to themselves towards opposite ends of the building on the ground floor. Files were stored in the general office which was also the reception area. Other members of staff were accommodated there including Mr Lee's secretary and the room was quite crowded. The Child Protection Register was kept there although Mrs Susan Millar had failed to locate it when she arrived in the Department. There was a fax machine in the general office and there were photocopying facilities in another room. There was an interview room on the ground floor and a room for meetings on the upper floor. There was a central switchboard at the main entrance to the Council Office with extensions to all the rooms in the Social Work Department. Most calls were routed to the general office. Mr Lee alone had a direct external line.

2.8 The Chairperson of the Social Work Committee of Orkney Islands Council was Councillor Mrs Mhairi Trickett. She kept in regular touch with the Director, often visiting the Department more than once a week to see him or Mrs Susan Millar.

2.9 The Department which Mr Lee took over was in his view under manned and under resourced. He considered that there was a poor management structure and a lack of policies, objectives and written procedures. Mrs Susan Millar shared these views when she arrived. Mr Lee set about applying for more money and more personnel and re-planned the staffing structure of the Department. The shortage of personnel and the pressure of work hindered his progress. The Department was small in size and the staff had been used to working on their own without the guidance and direction of any strong management.

2.10 So far as Mr Lee was aware when he took over there were no written procedures to assist the social work staff in the Department. Mrs Susan Millar

found the absence of policies and procedures disturbing and demoralising. In January 1991 Mr Lee and Mrs Millar set about the considerable process of drawing up written procedures for child protection work but little progress had been made by the time of the removal of the nine children. The procedures were later completed and were ratified on 6th September 1991. The Department had copies of the procedures drawn up by the Highland Region and that formed a basis for their own discussions on procedure. There was, however, in the Department also a brief Memorandum of guidance for use in cases of non-accidental injury to children. The Memorandum was dated 18th September 1984. It was produced during the course of the Inquiry, but Mrs Susan Millar had never seen it before. On 11th March 1991 after the nine children had been removed the solicitors acting for their parents asked Mr Lee for a copy of the child protection guidelines and while he replied that he would send them something he was unable to send a copy of any Orkney guidelines on which he had acted.

2.11 The small size of the Department enabled matters to be discussed informally among the staff as opportunity occurred, but with such informality went a practice of keeping little in the way of written records. The booklet by the Scottish Office entitled *Effective Intervention* and a summary of the Cleveland Report were available in the Department, at least after Mrs Susan Millar's arrival, although on 4th March 1991 Mr Lee could not lay his hands on the copy of it and obtained a copy of the short version sent by fax from Strathclyde by Mr Gilmour of the Social Work Department there. Mrs Susan Millar brought certain documents with her and ordered certain publications to be added to those available in the Department. She arranged for certain social work periodicals to be provided although there had been no budget for such material. The Department had not yet engaged in any joint training programmes but this was something which Mr Lee intended to promote. The members of the Department sought to operate in line with their general understanding of good practice in child protection work, having regard to the general guidance contained in *Effective Intervention* and their understanding of the policies of other local authorities. They thus operated substantially on an oral tradition.

2.12 The Education Department had an Educational Psychological Service which also acted as a child guidance service. Other services of that kind were offered by the Orkney Islands Health Board. A general psychiatrist visited on a monthly basis from Grampian Region. Clinical psychology services were less used and were available every three months for one or two days on a regular basis but special arrangements would be made in a case of urgency. A child psychiatrist from Grampian visited as and when necessary.

2.13 The Department carried on a substantial amount of work in connection with services for the elderly, with occupational therapy and with care for disabled people. They had responsibility for Day Care establishments for the elderly and for the mentally handicapped. Mental Health was regarded as a particularly important area involving commitments to local groups and the processing of grant applications as part of the Care in the Community initiative of Central Government. It was in addition to these other concerns that they had the responsibilities in connection with child care. In that latter area they had frequent contact with the Reporter to the Children's Panel and in 1991 had a good relationship with the Acting Reporter, Mr Sloan.

2.14 The area of child care work required particular attention and it became a matter of growing concern to Mrs Susan Millar that it was not receiving the priority which she considered it deserved. After the removal of the W children in November 1990 child care was a main area of concern to the field workers in the Department. That case strained the resources of the small Department in Orkney. Notwithstanding the considerable pressure imposed on the Department to meet the requirements of community care already referred to, Mrs Susan Millar considered that Mr Lee should give a greater priority to child care policy and she drew Mr Lee's attention to this.

2.15 On 8th February 1991 Mrs Susan Millar wrote a letter to Mr Lee tendering her resignation with effect from 19th March. She had been contemplating this course from about December 1990. The letter set out her reasons which were

derived essentially from what she saw as the Director's lack of serious commitment and thought for herself and her team in the area of child care. She was concerned at the lack of written guidelines and felt that to stay would be intolerable and dangerous. Mr Lee was aware of Mrs Millar's concern about the area of child care and they had discussed it together, but what she set out in the letter had not been totally conveyed to him in discussion. He appreciated her point of view, but the Department was under considerable pressure and he was concerned to increase the staff and establish an efficient structure. As he saw it, the problems of the whole Department, including child care, resulted primarily from the staffing difficulties. He also appreciated the stress under which Mrs Millar was working and indeed had reported her overload of work on 3rd January 1991 in a memorandum to the Council seeking further resources. In the event as narrated later she stayed on in the Department for the course of the cases of the nine children.

2.16 Both the traditions of practice and the quantity of work made it difficult for up to date records to be kept of the work which was being done and this proved to be particularly the position after the nine children had been removed in February 1991. The notes made by the social workers would be filed as soon as the clerical staff had time to type them. Much was done initially in handwriting but some members of staff used dictaphones. Such notes as Mrs Susan Millar kept of the events in February and March 1991 were not fully transcribed until some time after the event and, in the case of some of the notes, only after she had left the Department in May 1991 having finally resigned on 20th May 1991.

(B) THE POLICE **2.17** The police force in Orkney is part of the Northern Constabulary which covers the Highland Region, the Western Isles and the Islands of Orkney and Shetland. The principal station in Orkney is in the centre of Kirkwall and there were some locally stationed officers including one in St Margaret's Hope on the island of South Ronaldsay. The Orkney force was under the command of Chief Inspector (now Superintendent) Ratter. He had no personal involvement in the matter of the removal of the nine children after 14th February. The senior officers principally involved were D.C.I. Gough (now Detective Superintendent) and D.I. Heddle. Sergeant Hilary Hanson was administrative assistant to D.I. Heddle. They were stationed in Inverness. D.I. Heddle had had some experience of work in cases of child abuse but no specific training.

2.18 A joint approach to the investigation of sexual offences and sexual abuse was introduced by the Northern Constabulary as set out in a Force Order in 1989. A seminar was held at that time involving police and social work personnel in Kirkwall. It had been attended by the then Director of Social Work. Paragraph 15.11 of the Order requires liaison to be made with a designated officer of the relevant Social Work Department and a decision to be made whether or not a joint police and social work approach is to be adopted from the outset. Paragraph 5.15 of the Order provided that:

'In a joint investigation the police officer and the social worker will work together. This investigation will include a joint interview of the child and where a disclosure is made, the noting of a statement. They will continue to work together throughout the investigation, obtaining the necessary statements and also, where required, instituting any Place of Safety Order.'

Provision was also made for the police to interview any suspect and to process any accused. No corresponding document had been prepared by the Social Work Department. The joint approach set out in the Force Order had worked satisfactorily in practice in the Highland Region on a number of occasions before February 1991.

(C) THE ACTING REPORTER **2.19** Following the suspension in 1990 of the Reporter to the Children's Panel who had been appointed by the Orkney Islands Council for the purposes of the Social Work (Scotland) Act 1968 temporary assistance was sought from Strathclyde Region to enable the Reporter's work in the Orkney Islands to be continued. Mr Gordon Sloan who was one of the area Reporters in that region agreed at the request of the Regional Reporter, Mr Kennedy, to take over that work and on 19th April 1990 he came to Orkney as Temporary Acting Reporter.

The period of Mr Sloan's appointment was subsequently extended and eventually continued so far as the matters relating to the W children and the four families were concerned until 30th June 1991.

2.20 Mr Sloan had worked as a Reporter since 1972 having served earlier as a member of a Children's Panel. He had no formal qualifications but a very considerable experience. When he came to Orkney in April 1990 he found no staff whatever in the Reporter's Department and in the absence of any local guidelines on practice he used the practice adopted in Strathclyde with which he was familiar. He visited Orkney for periods of a few days every few weeks and dealt with the work required of the Reporter there which consisted for the most part of offence cases. In between these visits he carried on his normal work as an Area Reporter in Strathclyde, but was available there for advice by telephone for anyone in Orkney. Mr Sloan created a good working relationship both with the police, with the Education Department and with the Social Work Department.

II. The W Family

(A) THE EARLIER HISTORY

2.21 The W family had settled in the Orkney Islands several years before the events with which this Inquiry is concerned. The family extended to fifteen children whose dates of birth ranged from 1966 to 1986. The family lived for a time in Rousay before moving to South Ronaldsay in 1985. In 1985 information came to the Social Work Department indicating that certain of the W children were being abused by their father. On 6th January 1987 the father was convicted of certain offences of physical abuse under the Children and Young Persons Act 1987 and was sentenced to eighteen months imprisonment. The abuse which the children had suffered was of a sadistic and horrific character. On 16th March 1987 the father pled guilty to various offences of sexual abuse involving certain children of the family and was sentenced to seven years imprisonment. Thereafter the Social Work Department kept in contact with those of the family who still lived in South Ronaldsay.

2.22 Particular concern arose in 1989 about the situation of eight of the W children following on the making of certain allegations by one of the W girls. On 22nd June 1989 these eight were taken to places of safety, two in Orkney and six in Highland Region on the basis of allegations of sexual abuse by siblings. These orders were discharged on 23rd June 1989, two by the Reporter and the rest by a Children's Hearing. The six children in Highland were made the subject of Place of Safety Orders in that region on 26th June 1989. On 11th July the grounds for referral relating to those of the children whom the Reporter had referred to the Children's Hearing in Orkney were established by proof but on 13th July, after a sitting lasting for eight hours, the Children's Hearing decided that the younger children should return home under supervision. It was a condition of the order that they should not have contact with their older brothers. One reason given by the hearing for making a supervision requirement was the need for regular contact to be made with an educational psychologist. In July 1989 the RSSPCC expressed concern to the Secretary of State about the system and service for child protection in Orkney including the services afforded to the family and in August 1989 they prepared a report for a Children's Hearing. They expressed further concern to the Chief Executive of the Orkney Islands Council by letter of 2nd February 1990.

2.23 The social workers allocated to support Mrs W in 1989 who were Mrs Michelle Miller and Mr Rab Murphy found it difficult to talk with her and their task was not made easier when they visited her by the presence in her house of friends, such as Mrs T, Mrs M, Mrs McKenzie and a local general practitioner Dr Broadhurst. The social workers used to visit Mrs W twice a week and they felt that the presence of the other visitors prevented them working with Mrs W and her children in the interest of the latter's protection. When Mrs Michelle Miller sought to persuade Mrs W to let her see her alone she would reply that the visitors were her friends. The social workers did not discuss with Mrs M or Mrs T or the other visitors the problem which they felt they were having.

2.24 The staff of the Social Work Department became aware of considerable contact between the W family and the M's and the T's. Mr and Mrs M undertook some part-time teaching of OW and Mrs M helped Mrs W with baby-sitting. Mr M attended at certain of the Children's Hearings in 1989 as a teacher of OW and was asked by the Reporter to contribute to the proceedings. In June 1990 a tutor was employed for OW and Mr and Mrs M rarely saw her thereafter but her brothers and sisters would come to the M's farm and play there. Mrs T had met Mrs W in August 1989 and had sought to help her both by writing at that time to the Secretary of State for assistance and later arguing on behalf of Mrs W in meetings with the visiting social workers. At one period she gave lessons to OW in aerobics. In about July 1989 an incident occurred when Mrs M sought to visit OW on the mainland of Scotland. What she had intended as a harmless remark to reflect her determination to see OW was relayed as a threat to take off her clothes in the street unless she was allowed to see her.

2.25 The staff of the Social Work Department believed that the W children were being encouraged to feel animosity towards the Department. On one occasion one of the W children asked Mrs Michelle Miller what he was supposed to do when he was asked to hate someone he liked. On another occasion in 1989 as she was leaving the caravan where Mrs W, together with some of the children and some visitors including Mrs T had been, BW said that 'we', which Mrs Michelle Miller took to mean the people in the caravan, had on the previous night made an effigy of Mrs Michelle Miller and burnt it. Mrs T had not in fact seen the burning of any effigy and did not believe that the W family hated the members of the Social Work Department.

2.26 Mr Lee and Mrs Susan Millar were aware of the history and problems of the W family and of the problem which the staff had had of working with Mrs W. Mr Lee had read up the background of the case after he took over as Director. Mrs Susan Millar had been given to understand that it was an inactive child care case and by 1st November she only had a partial understanding of it. The case had not been highlighted when she arrived and she had not read the extensive file, having left it to the last as it was so large. It had been intended to hold regular meetings on the case but nothing had been done in that regard since a case conference in May 1990. Mrs Millar introduced Miss Lynn Drever to work specifically with OW towards the end of October 1990.

(B) THE REMOVAL OF THE
YOUNGER W CHILDREN

2.27 On 30th October 1990 OW alleged to a support teacher that she was the subject of an inter-sibling sexual relationship. On 1st November Mrs Susan Millar heard of this allegation. She then contacted C.I. Ratter of the Northern Constabulary in Kirkwall. OW was due to be sixteen on 2nd November and Mrs Susan Millar was told that other W children had in the past as they approached their 16th birthdays made allegations of sexual abuse which they later retracted. On that same day 1st November 1990 a Place of Safety Order was obtained for OW. An order was obtained at the same time in respect of the youngest child about whom OW had given some information to her teachers. The information available on the W family was assessed at a meeting on 1st November between Mrs Susan Millar, Mrs Michelle Miller and Miss Lynn Drever. Mrs Susan Millar and Miss Drever went to Mrs W's house and discussed the matter with Mrs W. She reacted calmly and said that the abuse could not be continuing at that time. OW seemed pleased to see the social workers and indicated that she would be pleased if a decision was made for herself to leave home. Mrs W did not object. OW was then taken to Camoran.

2.28 The Social Work Department worked jointly with the police in seeking to investigate the allegations which had been made. Miss Drever visited the W household with Constable Williamson of the Northern Constabulary as part of a joint investigation in accordance with the Northern Constabulary guidelines. She wanted to interview SW but when she arrived she found that not only was Mrs W there but also Mrs Oakes and Mrs McKenzie. Miss Drever indicated that her wish was to interview SW in relation to certain allegations. Mrs W wished her solicitor to be present or failing him her G.P. Dr Broadhurst. Neither of them were immediately available but time was allowed for Dr Broadhurst to attend.

Miss Drever left for a while to enable him to come but when Miss Drever returned she found others were there in addition, including the Reverend Morris McKenzie. She asked if the others could leave and Mr McKenzie became hostile and said that reasonableness was not what he expected of social workers but he would leave.

2.29 On 2nd November Constable Linda Williamson and Miss Lynn Drever visited OW but she gave them no information of any sexual abuse. Mrs Susan Millar and Miss Drever visited her on 5th November and on that date OW made certain allegations to them of sexual relationships between one of her brothers and the younger siblings. However, on that same date, 5th November, Constable Patricia McKay interviewed OW and OW told her nothing.

2.30 On 6th November the situation was discussed by Mrs Susan Millar with Mr Lee. It was decided to seek Place of Safety Orders in respect of all the seven W children then under sixteen years of age. The implementation of the order was discussed with the police and it was decided that they would act jointly under the Northern Constabulary procedure and remove the children who were at school from the school. The order was obtained from a Justice of the Peace. Mrs Susan Millar with Miss Lynn Drever and a police officer went to Mrs W's house and explained that the orders had been obtained and what was proposed. Mrs W indicated that the youngest child SW was away from home but would be back later.

2.31 The other children were removed from the school which they were attending. Mrs Michelle Miller and Mrs Mary Finn went to the school along with certain members of the police force. It was arranged that the head teacher should bring the children out and she did so but MW ran back into the school and Mrs Finn entered the school, found her in her classroom and led her out by the hand. One of the school children said afterwards that MW had been dragged out of the class and, although the account of the removal was later over-dramatised in the reporting of it, the incident did cause some upset in the school. The children who were removed from the school were all taken to the mainland of Scotland on that same day. These children were HW, AW, LW, BW, MW and QW.

2.32 When the social workers and the police went to the W's house to uplift the youngest child SW the child was not there. Mrs W told them that SW was in Kirkwall with an older sister. Mr Lee received a call from a newspaper during the afternoon suggesting that SW had taken sanctuary in the local Parish Church. It was then heard that she was in the Manse. The police sought the assistance of the Social Work Department to join them in following up the information which they had received.

2.33 In the evening Mr Charlie Fraser and Constable McKay, after visiting the W family house and the M's house went to the Manse. Looking through the shutters he saw Mrs T, Mrs O, Mrs W and the child SW. Mrs T had gone to the Manse and found SW with Mrs W and Mrs O there. Mrs T then appeared outside and Mr Charlie Fraser told Mrs T that there was a Place of Safety Order for SW and asked Mrs T if she knew where SW was. She said that she did not know, which was not true. She was prepared to lie about SW at the request of Mrs W who was very distraught. She also said that she could not open the door as the lock had jammed and she had locked herself out. Mr Charlie Fraser and Constable McKay decided that further action would be too traumatic for the child and then left to take steps to secure that the child was not removed by boat or by air from the island. The Reverend Morris McKenzie had not been in the Manse that evening and was surprised when he returned to see SW there. He immediately phoned Chief Inspector Ratter to reassure him that the child was safe. Chief Inspector Ratter understood that the minister was caught in a difficult position between those who wanted to hold the child back from the Social Work Department and those who wanted to remove the child to a place of safety.

2.34 At about 11.10 pm on 6th November Dr Broadhurst phoned Chief Inspector Ratter and assured him that SW was safe and well and would be taken to the Children's Hearing in the morning. Not wanting to add to the child's trauma Chief Inspector Ratter accepted the assurances of the minister and of Dr Broadhurst that the child would be brought to the hearing the following morning and he took

no further action that night beyond telephoning to Mr Lee to report that the child was said to be safe.

2.35 On the following day, 7th November, SW was brought to the Children's Hearing and was handed over. The Children's Hearing had been arranged for OW with a view to considering her further detention. Mrs Susan Millar attended and found that a number of people had arrived at the hearing, including Mrs W with SW, her solicitor, certain of her children, Mrs M, Mrs T, and Mrs McKenzie. Mrs Susan Millar had considerable difficulty in obtaining possession of SW. There was some shouting and some obstructive conduct on the part of those supporting Mrs W. SW was upset. Eventually, possession was obtained of the child and SW was taken away to the mainland of Scotland to join her siblings.

2.36 OW and the younger children with the exception of MW were medically examined. The doctor who examined OW reported evidence of sexual penetration which post-dated her father's imprisonment. Signs of what was described as chronic penetrative abuse were reported in respect of AW, QW and SW and it was believed that in the case of SW this post-dated the father's imprisonment. Mrs W denied that abuse had occurred and continued to deny it at the later hearing. The cases of the younger children came before a hearing on 12th November and on the denial of the grounds for referral an application was made to have them established before a Sheriff.

2.37 On 12th, 13th and 14th December there was a proof in the Sheriff Court on the grounds for referral and the grounds were established. On 23rd January 1991 the hearing made the children subject to supervision orders with a condition of residence away from home under Section 44 of the 1968 Act. Mrs W was denied access to them for a period of three months. The disclosure to the hearing of the reports on the medical examinations of the W children received some press publicity and there were indications given in at least one press report, a copy of which was sent by Mr Sloan to Mrs Millar by fax on 28th January 1991, that allegations of abuse were coming from more of the children than OW and that 'friends of the family' had known what was going on. The hearing was attended by Mrs W, her solicitor and Mrs Oakes and there was a considerable number of people gathered outside the building.

2.38 After the younger W children were taken into care in November 1990 they were at first accommodated together, except for one of the boys (HW) who was believed to be a possible abuser as well as being abused. The children were for the first few weeks all accommodated in Strathclyde in a children's home on an emergency basis but in December 1990 more permanent placements were found in Highland Region which allowed some further separation of the children to different families and locations. Detective Sergeant Sutherland's and C.I. Ratter's view was that the evidence obtained from them would be stronger and less likely to be contaminated by discussion among themselves if they were separated. QW and SW were placed together in one foster home and LW and BW were placed together in a children's home. The other children were in separate placements. MW met QW and SW briefly and under supervision at Christmas time 1990, and HW, BW and LW met by chance outside some leisure facility in early January but, other than that, the children did not all meet together until 26th April 1991 at Coulpark Children's Centre in Alness. On that occasion the younger W children all met together for about one and a half hours. At one stage in the evidence Mr Goodfellow mistakenly gave the date for that meeting as the end of January or early February 1991, but the correct date was 26th April 1991. In early February interviews with the W children were moved to Dalneigh from Killen because Mrs W, Mrs Oakes and Mrs McKenzie had been seen in Highland Region making attempts to trace the placement of the children.

(C) THE SUPPORT FOR THE
W FAMILY

2.39 While OW was living at Camoran after she had been removed from her home a number of local people turned up there protesting that she should not be in care. Some of them became abusive when they were refused access to her. Moreover other incidents became known to the Social Work Department relating to OW during this period. After OW had been removed from home Mrs W sought to have Mr Charlie Fraser help her in refuting the allegations which O was making

of the alleged abuse of her siblings. Later Mrs Oakes and Mrs W telephoned Mr Charlie Fraser, stating that O was mentally ill and telling him that they wanted him to go and see her to make her retract. Mr Fraser told them that he was no longer OW's social worker and he reported the matter to Mrs Susan Millar. In November 1990 Mrs T telephoned to Mr Thorpe at Camoran and asked that Dr Broadhurst be consulted about OW. Mr Thorpe asked why it was necessary for OW to see Dr Broadhurst but he received no reply. On 15th November 1990 OW made a remark to a member of staff of Camoran to the effect that she had made 'wild passionate love' to the minister of St Margaret's Hope. That was entered in the Camoran log book which was kept as a record of incidents there. Mrs Susan Millar first became aware of the entry in late December 1990 or early January 1991.

2.40 Mr Lee and others in the Social Work Department were conscious that there were a number of people concerned at the removal of the W children and anxious to support Mrs W in her desire to have them returned to her. It was believed that these people included Mrs McKenzie, Mrs Oakes, Mrs T and Mr and Mrs M. Soon after the W children had been taken to places of safety in early November 1990 a photostated circular was distributed by people seeking to support Mrs W advocating the return of the children. It included a photograph of the W family enabling the children to be identified. Mr Lee was aware that there had been some correspondence with the Scottish Office in support of Mrs W. It seemed to Mrs Susan Millar that the group of supporters were courting publicity and she found it hard to work with the W family.

2.41 The Social Work Department was aware that the T's and the M's thought that what was required for the W family was financial help rather than child protection. They wanted financial help for Mrs W and the provision of a home help. The staff of the Orkney Social Work Department who had been involved with the W family believed that Mrs W's friends were actively supporting her in her attempts to have the children returned to her.

2.42 Mr and Mrs M were concerned about the system under which the W children had been taken to places of safety in November 1990. They sought a meeting with Mr Lee but Mr Lee wrote saying that he could not discuss details and as they did not wish to talk in generalities no meeting took place. They along with Mrs T, the Reverend Mr and Mrs McKenzie, Mrs Oakes and Mrs W raised the matter with the local Member of Parliament and the local Member of the European Parliament as well as the Scottish Office. Mrs B wrote to the Secretary of State about her concerns regarding the W children but did not become further involved. She did not want much contact with the W family herself and she tried to keep her children from playing with them. She knew the T family but she had had little contact with them and she had not spoken to the H family before 27th February 1991. Mrs T also sought an inquiry into the W family, the removal of the children and their detention without access or correspondence.

2.43 After the W children had been removed from Orkney in November 1990 Mrs M made contact with some of those who were caring for them on the mainland of Scotland. She made a phone call to MW's foster mother. She telephoned to Dalneigh where she spoke to an official there about a video which she suggested that BW and LW might watch. The video was based on a book called *The Witches* by Roald Dahl. On 6th February 1991 she made a call to QW and SW's foster carer. She told the foster mother that she was a foster carer, that she wanted to send her love to QW and SW and asked if QW and SW had received Christmas presents which had been sent for them. Miss Chisholm was in touch with the foster mother as the foster mother had been upset by the call fearing that the location of the children would become known to Mrs W.

(D) THE CORRESPONDENCE

2.44 After the seven W children had been taken away from Orkney Mr Lee and Mrs Susan Millar became aware that a considerable amount of mail was being sent for them. Having discussed the matter they evolved a policy of having a look at the correspondence as it arrived. The correspondence was received by the Social Work Department. It was then photocopied and the originals forwarded to Mrs Liz MacLean, who was engaged in interviewing the children, to decide, in her discretion, whether the children should receive it. No regular system was followed

for this. From time to time a quantity of mail would be taken to the place where the children were. Mrs MacLean raised with some of the children two items from the correspondence but taking the view that the children were not as she put it comfortable with the references did not give any of the correspondence to the children. Much of the correspondence came from members of the W family, or Mrs Oakes, Mrs T, Mr and Mrs M or the Reverend and Mrs McKenzie or from combinations of some of such persons signing together. After SW had been handed over to the Social Work Department on 7th November 1990 Mrs T brought seven postcards for the seven W children. She later sent letters and chocolates to the W children. She also wrote to OW before Christmas and on 21st December Mrs W asked her to collect and deliver gifts for the children to the Social Work Department and she did so. On 2nd February 1991 Mrs T wrote to Mr Lee about letters intended for the W children which had not been passed to them with a copy of the letter to her MP and others.

2.45 Not only the quantity of the correspondence but some elements in it caused concern to Mrs Susan Millar and to Mr Lee and later to the RSSPCC and Mr Goodfellow, the Principal at the Children's Centre at Ferintosh in Highland Region. It was noted that there were references to the Loveheart Family, exhortations to be brave, to be strong, and confident, and such expressions as 'We got you out last time and will do it again this time' and advice to the older ones to look after the younger, which Mrs Millar saw as possible intimidation. Viewed in the light of what she understood the children were saying in interview the correspondence appeared to have some suspicious elements in it. Mrs Susan Millar found some messages to be inappropriate. There was a reference in a card from Mrs T to BW to the fixing of an electric heater in a caravan. Mrs T also wrote to HW referring to the repairing of a fluorescent light bulb. Mrs Millar thought that it was inappropriate for a boy of BW's age to be engaged in fixing heaters and that there could have been some veiled meaning in the message. There was a drawing of a tree with a boy standing behind it which seemed so drawn as to have an implied sexual association. There were several references in prose or in verse to animals and to rainbows, to brownies, to the Boys Brigade and 'BB'. References to 'Loveheart' were suggested both by words and in drawings. There was mention of turtles which seemed to lack context.

2.46 In certain of the correspondence from Mrs T there were terms of endearment which she believed were not reasonably open to misconstruction but which Mrs Susan Millar considered were inappropriate. Concern was felt, however, by the interviewers because at one stage in an interview BW was understood to be denying that he knew Mrs T when Mrs MacLean introduced her name. There were examples of alliteration which were noted. One example was a reference to 'B the best' which was believed in one case to have been 'B the beast' but Mrs T maintained at the Inquiry that she had referred to him as B the best. However, no approach was made by the Social Work Department to Mrs T to ask her about the correspondence or to suggest that she should desist from it if it was thought to be inappropriate. It never crossed Mrs Susan Millar's mind that she might make contact with Mrs T and raise the matter with her, nor did she think to ask Mrs T to correspond with more restraint. Correspondingly Mrs T considered herself under suspicion by the Social Work Department but did not approach Mr Lee to ask for a meeting to air the matter. She stated in her evidence that she could not think why she had not done so.

2.47 In addition to cards and letters there were gifts sent for the children which caused anxiety among the social workers. A hammer was delivered to the Social Work Department by as it was believed the Reverend Morris McKenzie on 20th December 1990 which was thought to be an inappropriate present for the age of the child for whom it was intended but no particular significance was attributed to it. There was some paraphernalia relating to turtles and a considerable number of animals and fluffy toys. A meeting was held on 20th December attended by Mrs Susan Millar, Mrs Liz MacLean, Constable Williamson, Mr Sam McTaggart and Mr Goodfellow. Concern was expressed about what was seen as the inappropriate character and the large number of presents which were being sent to the W children. A concern was felt that what was being sent might operate as an inhibitor

on disclosure by the children, in respect that the item might carry some association which would intimidate a child and warn the child not to speak. At that meeting consideration was given to the possibility of some inter-sibling access and the view was taken that it was not yet appropriate to allow it.

2.48 During the period up to early February 1991 the correspondence was only a subject of puzzled concern. There was nothing concrete to which Mrs Susan Millar could point as clearly indicative of abuse. The RSSPCC workers and the police were aware of the correspondence but drew no positive conclusions from it. But the quantity of it and more particularly what seemed to be certain curious features and references in it gave rise to unease at least on the part of Mrs Susan Millar although she did not seek any professional assistance to advise on its significance. Later some correlation was observed between what the children were saying in interview and the language of the correspondence so that a direct link appeared to crystallise and Mrs Susan Millar came to believe that coded messages were being sent. Thus the gifts of turtle paraphernalia were thought to link up with the reference in the disclosures by the W children to the wearing of turtle suits. Further, there was noticed in February some similarities between the identities of those who were sending the correspondence and those who were mentioned in the critical disclosures by the W children.

(E) THE EARLY INTERVIEWS
WITH THE W CHILDREN

2.49 After the seven W children were taken to their places of safety on the mainland of Scotland the RSSPCC was invited to form part of an investigative team with the police. The RSSPCC had been concerned over the previous two years for the welfare of the W children all of whom, as Mr Dunning explained to Mr McTaggart in a letter of 9th November 1990, they believed had been abused systematically for some time. There were women police constables in the Northern Constabulary with some training in talking to children, but there was no special unit for dealing with sexually abused children, although there is one in Strathclyde. Chief Inspector Ratter however preferred to use members of the Northern Constabulary rather than seek long term support from the Strathclyde Police. Mr Charlie Fraser travelled to Strathclyde and was engaged in taking the children to be interviewed at Strathaven. He was told that they were undergoing disclosure therapy which he understood was not investigative but would help them through the difficulties of abuse. He also spent a weekend along with a residential child care worker caring for SW and QW away from the other children as there were concerns that the older children might be intimidating the younger ones.

2.50 A multi-disciplinary case conference was held on 13th November 1990. It included Dr Linda Hamilton, Mr Rab Murphy, Mr Shearer, the Principal Educational Psychologist, Chief Inspector Ratter, Detective Sergeant Sutherland and Mr Norman Dunning, Divisional Manager of the RSSPCC. Mr Lee and Mrs Susan Millar were there and Mr Lee instructed them that the W family were not to be informed where the children who had been removed had been placed. It was agreed that an investigative team would be drawn together including staff of the police and the RSSPCC. Dr Linda Hamilton, who was only involved with OW, and had examined her for signs of sexual abuse on 9th November recommended a follow up for OW by a psychiatrist and it was agreed that a consultant child psychiatrist, Dr Valerie Davidson, should be contacted. Dr Hamilton also raised a question about a possible psychiatric input for all the W children who were in places of safety. The general view, however, was that they should wait and see. No psychologist or psychiatrist had seen the children other than OW by the time of the decision to remove the nine children. It was noted at the meeting that some of the information which might come from the children could have wide-ranging implications and might 'involve possible criminal proceedings within and outwith the family'. It is clear from the minutes that disclosures from the children were anticipated.

2.51 On 16th November 1990 Mrs Susan Millar attended a meeting at the premises of the RSSPCC at Annfield Place in Glasgow. The objective of this meeting, recorded in notes prepared by Mr Norman Dunning, was to consider whether it was practical for the RSSPCC to assist the Orkney Islands Council

Social Work Department in their work with the W family, by conducting interviews with the children who were in care in central Scotland 'with a view to determining more information about the abuse upon them'. Mr Dunning's notes of the meeting record that 'in terms of future management the RSSPCC will be working on a sub-contract basis to the Orkney Islands Council'. Orkney Islands Council was to meet the full costs of the RSSPCC's work. There was discussion regarding the need to work jointly with the police. The RSSPCC was to offer a service in the form of a small team lead by Mrs Liz MacLean, with one social worker from her own team, and one social worker from another team. The need for further detailed planning of the work was recognised and a further meeting was arranged for 20th November 1990. But already it was possible to agree that detail would not be entered into prior to the first stage of the interviews, 'which would let the workers involved begin their work with an open mind and thus elicit the best possible response from the children'. It was agreed that the interviews would be conducted in the RSSPCC premises in Glasgow or at Strathaven, and would be videotaped. The Divisional Manager of the RSSPCC now to be responsible for the management of the case was Mr Sam McTaggart.

2.52 On 20th November 1990 a meeting was held in Glasgow to discuss plans for the interviewing of the W children. It was attended by Mrs Susan Millar, Mr Sam McTaggart, Mrs Liz MacLean and Mrs Jean Stevenson of the RSSPCC, Constable Linda Williamson and D.S. Sutherland of the Northern Constabulary and Mr Rab Murphy of Strathclyde Region. Arrangements were made for the RSSPCC and the police to undertake the interviews at the Society's premises at Strathaven. The interviewers would be Mrs Liz MacLean of the RSSPCC, Miss Lindsey Stevenson of the RSSPCC and Constable Linda Williamson of the Northern Constabulary. An initial rota of appointments for SW, HW, AW and QW was drawn up. There was discussion of the nature of the work and the structure of the interviewing process. As Detective Sergeant Sutherland understood it, the intention was to gain the confidence of the children and let the children tell what had happened. After the placements of the children were later changed to Highland Region the work by the RSSPCC and the police which had initially been carried out at Strathaven continued at Killen and thereafter at Dalneigh in Highland Region.

2.53 It was understood that video equipment, or as a minimum audio equipment, would be used to record any interviews. Mrs Susan Millar in December understood that video equipment was tried but practical and technical problems arose with it. Mrs Liz MacLean explained in evidence that the absence of some audiotapes and the failure to use video was because of the evidence from and suspicion displayed by the W children which made open recording of them inappropriate. Mrs Millar assumed that audiotape was being used during December, January and February. The premises in Killen were not equipped with audio or video equipment and audio equipment was only installed in Dalneigh on 20th February 1991. Mr Sam McTaggart was to keep in touch with Orkney Social Work Department to report progress. However he considered that he could authorise Mrs Liz MacLean to pass information direct to Mrs Susan Millar. Mrs Susan Millar recorded in her notes that there should be daily telephone contact to gauge developments but said that weekly reports or phone calls were made to Orkney giving a summary of what had been said in interview. These would be discussed with Mr Lee and filed. Latterly, faxed reports were to be sent on Fridays to be available on Mondays.

2.54 Mrs Liz MacLean recorded in her notes of the meeting on 20th November 1990 at the RSSPCC's Glasgow premises that the W children were to be seen commencing 21st November 1990, initially without formal recording and with the main purpose of settling the children in their surroundings. Mr Sam McTaggart considered that this would be consistent with proper practice. Miss Lindsey Stevenson understood that the purpose of the first two interviews was to allow the children to get to know the interviewers, and the building in which the interviews were taking place. In further interviews with the W children, Miss Stevenson understood her role was to provide assessment and support, rather than therapy.

2.55 The nature and purpose of the interviews carried out with the younger W children was seen by Mr Dunning as of an investigative character. On 18th January 1991 he wrote to Mr Lee that since the children had been received into care on 6th November 1990 the RSSPCC had been offering a service comprising 'investigative interviews with the seven younger children of the family'. Mr Sam McTaggart in a letter to Mrs Susan Millar faxed to her on 12th December 1990 referred to the need for examining with the children 'the allegations of sexual abuse', but at that stage envisaged medium to long-term work related to the months of January to March by when it was considered that work of a therapeutic nature might be required. A further letter to Mr McTaggart from Mr Dunning, dated 18th December 1990 confirmed their agreement, following discussion on 13th December 1990, of 'medium-term' therapeutic work (January to March 1991) with the seven younger W children with the proviso that should there be further disclosure this work would also be undertaken together with the police. However in fact the police were always involved in the interviewing.

2.56 The precise purpose of the interviews was never discussed in any depth so as to achieve a clear universal understanding. Although Mrs Susan Millar described the sessions in a note as 'therapeutic' she had used the word loosely, reflecting the optional character of the sessions and the absence of leading or confrontational questions. The work was investigative, although she preferred the term 'support and assessment' to discover whether the W children had been abused as suspected. That was the term used by Mrs Liz MacLean to describe her work with the W children. Mr Lee was aware that the police wished the children separately placed for evidential reasons as they were commencing a criminal inquiry but was not wholly clear whether the interviews were evidential or therapeutic. He understood that separate placements were required to allow the children their own time and space to explore their experiences. The interviews were to continue until the children had explained what had happened or it was realised that no explanation would be forthcoming. Sergeant Sutherland believed that the children had been abused. He saw the purpose of the interviews as being to see who had abused them or whether that could not be discovered. He understood that interviews with the W children would consist of gradually getting to know the children, gaining their confidence, allowing them to tell what had happened, and thereby enabling the police to gain evidence.

2.57 Constable Linda Williamson considered that the purpose of the interviews was to obtain evidence by asking questions, as well as to assist the Social Work Department. She saw Mrs Liz MacLean's function as asking the children questions. The interviews with the W children were not, in her view, carried out with the purpose of enquiring into evidence of abuse from outwith the W family. Following MW's disclosure of 6th February 1991, however, Constable Williamson thought that the primary purpose of the interviews was to obtain corroboration of what MW had said, as well as fuller information. There were specific interviews carried out involving Constable Williamson during which, as she agreed in her evidence, a purpose was to 'firm up' evidence. She had been told to firm up evidence after a meeting which she had with D.I. Heddle on 14th February 1991. Constable Williamson also recalled D.C.I. Gough's request at the meeting on 14th February 1991 to obtain more information about the H family. It was a function of the police in joint interviewing to pay particular attention to dates, times and places.

2.58 Mrs Liz MacLean considered that the purpose of the interviews with the W children was communication, as opposed to some therapeutic purpose. The focus was to be on communication, and the children were to be supported through this. She did not consider that the interviewers were making a developmental assessment of a child, neither were they assessing a child's intellectual abilities or handicaps. Her view was that the interviews with the W children provided assessment and support, with a possible transition to therapeutic work depending on the children's progress, and on their continuing to disclose. There would be an important initial stage in joint interviewing, the first interview having the purpose of giving an explanation to the child of why he or she was being seen. Thereafter the child's communication was to be assessed by providing a neutral and comfortable environment offering a range of media through which the child

might communicate, look at his or her feelings, and build up a relationship with the workers. But Mrs MacLean considered that the underlying purpose of the interviews fitted into the wider picture that other persons held of the situation. After MW's disclosures on 6th February 1991 however Mrs MacLean considered that the interviewers attempted to focus on what had been communicated. But the approach to interviewing would be the same whether or not sexual abuse had been proved to have taken place. Mrs MacLean considered that the disclosure of information by a child might be helpful to that child's well-being in the sense of relief which resulted but the promotion of well-being in that way was not seen as a central purpose of the interviewing.

2.59 An inter-agency meeting was held on 20th December 1990 at which plans were discussed for further interviewing of the W children now placed in Highland Region. Mr McTaggart confirmed that the RSSPCC could offer what was described in what bore to be a minute of the meeting 'therapeutic disclosure' at Killen Resource Centre. The police indicated that Constable Linda Williamson would continue working with Mrs MacLean as before in order to gather all available information 'before questioning adults involved'. The importance of recording was stressed and it was understood that at least audio recording would be used and that video could be made available.

2.60 During the period from November 1990 to February and in some cases March 1991 various interviews were held with the younger W children by staff of the RSSPCC together with police officers. Generally the interviewers were Mrs Liz MacLean and Constable Linda Williamson and Miss Lindsey Stevenson of the RSSPCC was with them on some occasions.

2.61 MW, who was aged about 8 years, was very suspicious of the interviewers at the outset but later became communicative. At an interview on 24th November 1990 she was asked about anything she might like to play and she said laughingly 'the horsey game' but then became silent and looked away. She asked Constable Williamson to draw horses and pointed out that Constable Williamson had not drawn the 'tits' and 'dicks'. MW then conversed openly about adults' private parts, drawing numerous human figures with private parts on them. On 22nd January 1991 which was the first occasion when MW was seen at Killen she spoke of one of her brothers putting his 'dick' beside her 'fanny', saying that it had been stiff but had not been inside her. She seemed at this time more settled and more pleasant to the interviewers.

2.62 At QW's first visit to Strathaven on 21st November her elder sister AW was leaving and put QW against the wall and said 'don't talk'. QW, who was aged about four years, looked terrified but she rapidly recovered and settled in very quickly and was very communicative. At one stage on 21st November QW said she played a 'horsey game' but soon after that she changed the subject and it was not pursued further. Constable Williamson at an early stage regarded BW and QW as the most likely to provide the most information. She referred to them in her own notes as weak links.

2.63 During the course of the interviews with QW certain particular themes recurred. One was of sexual conduct. On 23rd November QW indicated that she had been hurt in the vaginal area by 'John's dickie'. She said that she had had dickies in her fanny and had seen boys put their dickies into AW. When asked about being hurt on her private parts she said that it was called loving, and it was 'ugly' and 'gooey'. The matter was taken up by the interviewers on 26th November 1990 with mention again of dickies going into fannies and again on 27th November when the interviewers asked her what it felt like when dickies go into fannies QW replied 'yucky, ugly, horrible, disgusting'. There was a discussion about which of her brothers had the biggest 'dickie' and she listed them in order of the largest to the smallest size. She mentioned that BW's 'dickie' was stiff but nothing had happened to her. Again on 29th November for the benefit of Constable Williamson who had been absent from the interview on 27th November she repeated some of the adjectives used to describe what it felt like when a 'dickie' went into a 'fanny'. During the course of the interviews QW mentioned Morris and at the first interview made laughing reference to 'Morris dear'. On 29th November after

Constable Williamson had asked about the minister QW said that his name was Morris and his wife called him 'Morris dear'.

2.64 BW, who was aged about nine years, was seen on ten occasions between 22nd November 1990 and 23rd February 1991 and on some of these occasions was seen by all three interviewers. Early on in the course of the interviews with BW Mrs Liz MacLean asked him about his words for private parts and he whispered his words for them. The same subject was pursued at the second interview on 24th November 1990. They talked about 'dickies' and 'fannies' and he said that one of his brothers had put his dickie into QW's fanny. On 26th November when asked if anything might have been done to his sister he said that the same brother had put his 'timmy' into AW and QW's fanny, and he demonstrated where these parts of the body were. He spoke of the same matter on 29th November 1990. On 1st December 1990 the interviewers sought to discover from him the dates when he had seen his brother doing this and he indicated that it had been in about March. On 23rd January 1991 however he denied having said these things about his brother. The interviewers also asked BW about certain particular people. On 1st December they asked whether he knew Mrs T but BW denied knowing her. Having in mind the card which Mrs T had sent to BW they asked whether he had fixed an electric heater for her in a caravan and he remembered that he had fixed a heater but associated that with Mrs McKenzie. Constable Williamson told BW that Mrs T stayed in the front road at the Hope which had not been known by Mrs MacLean. On 23rd January 1991 BW told the interviewers that he did know Mrs T but he turned away from them and they did not pursue the subject.

2.65 SW was the youngest of the children and was on occasions frightened and distressed. On one occasion with the use of dolls and teddies she indicated that some of the girls had been touched in their vaginal areas by boys. Several matters were raised during the interviews with HW including reference to the repair of the light which had been mentioned in correspondence by Mrs T to him. Mrs T was referred to by her christian name and HW denied knowing anyone of that name. AW and LW were interviewed on a few occasions prior to 6th February 1991. AW, who was aged about twelve years, was very quiet and seemed very suspicious. It was thought unlikely that LW, who was aged about eleven years would volunteer any information.

(F) THE CO-ORDINATOR **2.66** In January 1991 Mrs Susan Millar contacted Miss Janette Chisholm and asked her if she would be prepared to act as co-ordinator for the W children with the opportunity of helping them. Miss Chisholm had worked as a police woman, as a probation officer, as a field social work teacher and then as a divisional officer with the West Lothian Division of Lothian Region Social Work Department. Thereafter, until her retirement in 1983, she worked as principal social worker in The Royal Hospital for Sick Children in Edinburgh. During her retirement she undertook free-lance work and then from 1986 until 1990 worked as training and development officer for the Scottish Marriage Guidance Council. She started working with the Orkney Islands Council on 4th February 1991. Technically her employment was with the RSSPCC as a project funded by Orkney Islands Council. She was given some background information about the W family and attended a meeting on 1st February 1991 attended by Mrs Susan Millar, Mrs Liz MacLean, Constable Williamson and others. Mention was made of the correspondence sent to the W children and after her appointment the correspondence was sent to her. She was told of the Reverend Morris McKenzie as one of the senders of correspondence. A question was raised at the meeting as to what steps the police intended to take and Constable Williamson indicated that as yet there was insufficient corroboration.

2.67 During her first week of work, from 4th February, Miss Chisholm was in contact with Mrs Susan Millar and on 6th February she spoke to Mr Lee. Miss Chisholm and Mrs MacLean met one evening in the first week of the former's appointment and looked at a quantity of the mail which Mrs MacLean was considering with the possible view of using it with the children. Miss Chisholm also became acquainted with the interview techniques used by Mrs MacLean. Miss Chisholm's role was as a support and as co-ordinator. She kept in regular contact

with the children, would talk with them and discuss anything they were worried about. She sought to act as their own social worker. She had frequent contact with the foster carers or residential workers where the children were placed. She was thus able to help the carers deal with problems and also hear how the children were coping with every day living. By supporting the children she meant that if there was something which was bothering them she would do something about it. She did not engage in disclosure work but she would help the children to deal with any angry feelings they had. She engaged in role play with the children which she regarded as therapeutic. She told Mrs MacLean what she was doing but there was no plan of work which she was following.

2.68 At the meeting on 1st February Mr Sam McTaggart had a feeling that there might be information forthcoming from the W children. He derived that from an impression that the children were becoming more relaxed and more familiar and comfortable with the workers. Miss Chisholm had a similar feeling but her anticipation that information was about to be forthcoming was based on an entirely different impression. She met MW on 4th February and MW seemed to her like a steam kettle about to come to the boil. MW was talking to everyone she could get to listen to her. Mrs MacLean had indeed become highly suspicious before the first disclosures on 6th February 1991.

III. The W Children's Disclosures

(A) THE INTERVIEWS OF THE 6TH FEBRUARY

2.69 On 6th February 1991 MW had an interview with Mrs Liz MacLean and Constable Williamson. The interview was not tape-recorded but a summary was made by Constable Williamson after discussion with Mrs MacLean, the text of which (subject to abbreviation of the names which were given) was as follows:-

'We spoke to M about music and asked her if she liked music. She said "Yes I like music and dancing". We asked what kind of music. She said Kylie Minogue and Michael Jackson. She said we listen to this when we're dancing. We asked her who listens. She drew a figure (human) and put a penis on this and then something she identified as a cloak. She said "that's Morris' willie", and she laughed as she said this. We asked who would be there. She asked PC Williamson to write the names for her. She named Q, S, B, L, A, M, H, B, M, S and W, J (M told PC W. to write beside his name "He works the music") S, Lakey, Jan, Mum, Marie, K, (M said "he's there sometimes) and Morris (M said unprompted "he makes us run into a circle and he stands in the middle"). She then carried on with her list naming Sandy and O. PC Williamson queried her as to what Morris did. She spontaneously drew circles with a human figure in the centre. She then very quickly drew a hook-type object coming from the figure's arm. She said "That's Morris in the middle". She was asked what he was wearing and she described a long black cloak with a hood up over his head and a black mask over his eyes. We asked her "What happens?". M said "He hooks you when you're dancing". We asked what does everyone else do when he hooks you. She said everyone dances round Morris. She said "when he hooks you he pulls you in towards him". She further said that he's growing a beard and he rubs on you and hurts you. She put her hand to her face to demonstrate. She spontaneously said that we don't need to talk about the dirty stuff. We reassured her. She then went on to say that he (Morris) picks someone from the circle and hooks them in. She was asked what does he do then. She said Morris puts his "willie" into Maggie's fanny. She giggled at this. She was asked how he did this. She said "Lying down". We asked what are the others doing while this is happening. She said "They dance round". We asked what they are wearing and she said "Brownies, Girl Guides and B.B. uniforms, and sometimes cowboy outfits". We asked if Merrylegs (a horse) was there. She reacted by saying "I don't want to tell". She then pleaded with us not to tell anyone saying "My dad will kill me". We reassured her and comforted her. She then pulled a doll into herself and stood still and said "Don't tell my Mum".'

2.70 Constable Williamson had misplaced her notebook and as best as she could she wrote down what the child said in an A5 ring notebook. During the interview MW drew on a length of wallpaper and sought assistance from Constable Williamson to write down names, and draw a figure. Constable Williamson put crosses or ticks beside certain of the names but at the Inquiry was unable to recall what these signified. There was one list of children's names and another list of adults' names. Mrs Liz MacLean recalled that MW spoke and drew very quickly during the interview, commenting that while MW was drawing it all seemed to be 'flowing out of her'. Mrs MacLean considered the drawings to be significant because the child had produced them, and drawn certain details and had named persons who had been drawn. One of the figures had been drawn by Constable Williamson and MW had put her hand on her eyes. The eyes were covered in the figure because of this action of MW, while she was telling the interviewers about the figure. It was after this that MW drew a circle round the figures. Indications were written beside some of the names of what the person was wearing. These included 'mum—cowboy outfit'. However MW scored out indications on the drawing of what the people were wearing. It was not Mrs MacLean's practice to take any notes during interviews so that her whole concentration could be on communication with the child. After an interview she would discuss it with Constable Williamson and Constable Williamson would then write a summary with contributions from Mrs MacLean so as to produce an account of their collective recall. A clean copy was taken by Constable Williamson for typing.

2.71 The interviewers became aware that something significant was happening only because of the speed with which MW started to draw. The first point at which Mrs MacLean took particular note was when MW turned and laughed as she said 'that's Morris's willie'; Mrs MacLean was surprised and concerned. She did not expect the hook object to be introduced by the child. Mrs MacLean felt that MW's emotional response indicated that she knew that Mrs MacLean believed what she had said.

2.72 Constable Williamson was shocked and surprised by what emerged during this interview. Her inclination was not to believe the child, until MW said 'my dad will kill me'. That changed Constable Williamson's mind. She was startled to see the child's drawings. She recognised names given by MW including other W children, and other children's names and adult names. She recognised M(T) and L(T); she was not sure about B(T). She recognised the name 'Jan' from the correspondence, and also recognised Morris. She did not recognise S(B) or W(B). Mrs MacLean talked with Constable Williamson about the names which had been mentioned but did not want to know herself who the people were because her next interview was with QW at 11.30 that morning and she wished, as she put it, to stay where she was with the child.

2.73 Shortly after this interview QW was interviewed. The interviewers tried to introduce music and dancing with QW but she was not interested and the matter was not pursued further with her. At one point she looked at a turtle poster which happened to be on the wall as decoration. She reacted to this and the interviewers asked her if she did not like the turtles. She said that she did not and that they were creepy although she would not say why. She said that her mum had given them turtle suits to wear and that she did not like wearing hers. The interviewers asked her why but she was distracted by the arrival of her foster mother, and did not answer. Constable Williamson indicated that the turtle poster happened to be on the wall at Dalneigh along with some other posters. She took down the poster later on, on a number of occasions, because the child had said at first that she didn't like turtles. However the cleaner kept putting it back again.

2.74 On 6th February, on the advice of Mr Sam McTaggart, Mrs MacLean reported by telephone to Miss Janette Chisholm that MW had made a disclosure and told her the substance of what had been said. The news was noted by Miss Chisholm as a 'breakthrough this morning' with MW, that many of the trigger words were being explained and that Miss MacLean was planning another interview. Miss Chisholm thereafter telephoned to Mr Lee and reported on the interview indicating that another adult and another child had been mentioned. It is not clear whether names were mentioned but probably mention was made of Mr

McKenzie. Miss Chisholm told Mr Lee that she would clarify later if the abuse was penetrative. She could not recall if she had telephoned later to clarify that matter. For her own purposes she did not require to know the details. She needed to know of the breakthrough. Mr Sam McTaggart had authorised Mrs MacLean to pass the information directly to Orkney Islands Council so that it could be given first hand by the interviewer. Miss Chisholm was not her usual channel of communication although she had discussed some matters with her.

2.75 On 7th February at about 11 am Sergeant Sutherland accompanied by Constable Coates in plain clothes met Mr Lee at the Social Work Department and Mr Lee at once told him that one of the W girls had made a disclosure involving Morris McKenzie. Sergeant Sutherland had at that stage heard nothing from Constable Williamson but thereafter arranged to see Constable Williamson who was returning to Orkney in any event by ferry. She arrived bringing with her her ring pad, a written summary and the wallpaper with the drawings. The ring pad was subsequently shredded. At about 3 pm on the same day she showed him the hand-written summary of the interview of 6th February. Sergeant Sutherland instructed her to continue to gain more information and to ascertain if the other children could corroborate the alleged incident and if there was evidence of abusive activity outwith the family. The summary was also shown to C.I. Ratter and he looked at it with Sergeant Sutherland. Mr Lee had informed C.I. Ratter during the morning of the allegation made by MW. C.I. Ratter noted it as an isolated story by a small child, insufficient for criminal proceedings but to be taken seriously. Sergeant Sutherland was concerned to establish whether what the child was saying had any credibility before considering whether it was accurate.

2.76 Mrs Susan Millar had travelled South on 5th February to attend at Stirling University where a course was being held on community care. On the evening of 6th February she had a meeting with Mr Norman Dunning of the RSSPCC and she returned to Orkney at midday on 7th February. By that time Mr Lee had heard of the allegation made by MW but he left Orkney in the late morning of 7th February and did not leave a note for Mrs Susan Millar about it as the matter did not seem of sufficient significance being very vague. He returned on Saturday 9th February. Mrs Millar did not immediately know after her return of the disclosure made on 6th February while she was at Stirling and it appears that in none of the telephone calls which she had between then and 13th February was she told of it. Mr Sam McTaggart recalled that the allegations were not mentioned in any call he had with Mrs Susan Millar before 13th February and they were not mentioned in the call she had with Miss Chisholm. Mr McTaggart considered that Mrs Susan Millar would have taken action and discussed the matter had she known of it. A typed note was discovered during the course of the evidence at the Inquiry which recorded telephone calls of 7th and 8th February in the Social Work Department with Mrs Susan Millar's name at the end of the note. The first record dated 7th February appeared to be a report of the allegations made by MW but despite the superficial impression of the record it was probably not the record of a call to Mrs Millar. On 7th February and on 8th February Miss Chisholm spoke to Mrs Susan Millar on the telephone but no mention was made of the disclosure by MW. Miss Chisholm did not see it as part of her duty to pass such information to Mrs Millar. She would not in the natural course have spoken of MW's allegation and would have assumed that Mr Lee would have told Mrs Millar.

2.77 Mr Sam McTaggart was told by Mrs MacLean of the disclosures on 6th February. He advised her to pass anything of significance direct to Orkney Islands Council, assuming that full transcripts were being sent. On 8th February Mr McTaggart discussed the drawings and the interviews with Mrs MacLean. He saw no notes of the interview at that stage but was shown and taken through the drawings. He never considered obtaining an external evaluation of them. He understood that evaluation was taking place between Mrs MacLean and Mrs Susan Millar and believed that Mrs MacLean was keeping Mrs Millar regularly advised about the interviews. At that stage the allegations by MW were seen as novel and unsupported. They were not given the significance which they later acquired when further members of the W family were understood to be making similar allegations.

2.78 Mr Lee was on the mainland on 8th February and it was on that day that Mrs Susan Millar wrote her letter of resignation. The letter was delivered internally on Monday 11th February to Mr Lee, Councillor Trickett, and the Chief Executive. Mrs Susan Millar was back at work in the Social Work Department on 11th February and was still unaware of the disclosure by MW on 6th February. Following on her letter she had a discussion with the Chief Executive and with Councillor Mrs Trickett the Chairperson of the Social Work Committee who had already spoken to Mr Lee about it. Mrs Millar then agreed to think about the position and take some time off to do so. She thought for two days and then, on the 13th, information reached her from the RSSPCC following on the further disclosures by the W children which she felt obliged her at least for a time to stay. She tendered her resignation again in April and left the Social Work Department in May 1991.

(B) THE INTERVIEWS OF
12TH FEBRUARY AND
13TH FEBRUARY

2.79 On 12th February 1991 MW attended for a further interview with Mrs MacLean and Constable Williamson. MW made further drawings and Constable Williamson made written notes on the wallpaper. The drawings made at the previous interview were available if MW wanted to use them. Constable Williamson prepared a summary of that interview in the following terms (again subject to abbreviation of what were taken as children's names):-

'M arrived wearing a turtle sweatshirt. We asked her if her brothers and sisters had turtle outfits. She said "Who told you". We replied that one of her sisters had told us and we asked her if she could tell us about this. She said she didn't want to talk but would draw it. She began to draw while we sat silently. She drew a mis-shaped circle with a human figure wearing what she said was a turtle outfit. This figure she told us was Morris. She drew several vertical lines on the circle and said this was people. The "Morris figure" was drawn "hooking" a smaller figure which M said was Q. She then drew another figure who she said was J working the music. She drew a table with a box on top and said that was where the music came from. She then described Morris hooking Lakey into the centre and said he sticks his willie into Lakey's bum, M pointed to her own vaginal area whilst saying this. She then said that they all stand round clapping and she clapped her own hands quite slowly. She then said that Morris hooks Q and sticks his willie into her. (Indicating vaginal area again). M then drew a horse and a couple of figures (human). We attempted to pursue this drawing but M avoided this subject.

We then asked her if anyone else went into the circle. She said that Lakey and B went in. She then drew two human figures beside the table and music centre. She told us that the people were still clapping. She then drew the sun looking down with a sad face and tears and said that the sun was crying. She told us that B was sad. She then demonstrated using her fingers, saying that B's willie went right into Lakey's fanny.

M was asked where this happened. She said in a quarry in a field. She drew a picture of a car and trailer travelling to the place from her home. In the trailer she drew the table and music centre. She drew car lights on and said it was dark. We asked her who would be there, she named Morris, Jan, J, S, Jane, Lakey, O, Sandy, S, B, Q, W, M, B, A, H and L.

She then said that Morris hooks you in when its your turn. We asked if everyone got a turn and she said "Yes".'

Constable Williamson wrote down the list of names mentioned by MW on the sheet of wallpaper.

2.80 On that same day, 12th February 1991, QW attended an interview with Mrs MacLean and Constable Williamson. Again no tape recording was made of this interview, certain drawings were made by the child and Constable Williamson prepared a summary as follows:-

'Q was asked if she remembered telling us the previous week, that she and her brothers and sisters had turtle suits. She said "Yes". She was asked what do you do when you're wearing your turtle suits. She sat silently for a while before saying "We dance". She was asked if she wanted to draw it. She

asked PC Williamson to draw some turtles. Some turtles were drawn. Which (sic) she identified one as being Morris and one as being M. We asked what happens and she said "He hooks her". PC Williamson drew a hook and said is that right and she said "Yes". We asked what happens when he hooks M. She said "M lies on the grass and Morris puts his dickie into her fanny". We asked her if M does anything. She replied "M cries, but I don't". We asked her if it happened to her and she said "Yes".

'We asked her where this happens. She said that Lakey's car goes to a hole in the ground and she asked PC Williamson to draw Lakey's car but said she would draw the people. She asked me to draw a trailer on the back. PC Williamson asked her what would be in the trailer. She told us a table, the music and then said "Oh the hooker". A small hook-type thing was drawn but Q said it was wrong and drew a much larger hook (similar to a shepherd's crook).

'Q then drew "Lakey" driving the car and she drew two smaller figures in the back. She drew masks on the small people and said that was M and P wearing their turtle masks. Q then said to PC Williamson that she had forgotten the lights on Lakey's car and Q herself drew the lights on saying it was dark.

'She was asked where would Lakey be going with the two children. She again said the hole in the ground and spontaneously drew a figure in a cloak standing in a circle. This figure was holding a large hook. She said that's Morris and drew a small turtle figure standing at the edge of the circle and said that's M. She said that Morris put his willie into M. We asked how, if Morris had a long cloak on, did he get his willie out. She said indignantly, "With the zip", and made a pulling motion with her hand. We asked her if there was a name for Morris and she said "You could call him Master".

'We pointed to the drawing of the hooked object and asked if there was a name for it, she replied "hooker". Q then began doodling on the paper drawing strange, alphabetical signs'.

2.81 On the following day, 13th February, BW attended an interview with Mrs MacLean and Constable Williamson. A summary was later prepared by Constable Williamson of this interview in the following terms (again subject to abbreviation of names):-

'B came in and studied the poster of the Teenage Mutant Turtles on the wall of the premises. He was asked if he or his brothers and sisters had turtle suits. He turned away for a while before saying yes. He was asked what happens when people wear their turtle suits. He replied that they all go somewhere. We asked who would go somewhere? He said B, M, S, E, W, S and J and his own family and then said Sandy, William, Lakey and her husband and Jan and Morris. We asked how they got to where they were going. He said "By car". He said that one person took a trailer, he thought it was Sandy. We asked what was in the trailer. He said "A table, Hi-fi and the hooker".

'We asked him to say what happened, he said that they all went into a field at a quarry about half a mile from his home, and that it was at night time. He was asked how people could see if it was dark and he replied that the "big people" took camping gas lamps—(blue ones). He was then asked about clothing and said that "Morris wore a long, black cloak with a hood and mask, but that sometimes Morris dressed up as a Turtle as did Lakey. The other adults wore long, black clothing". B described how everyone danced round Morris until he hooked someone and pulled the person into the middle of the circle of people. He intimated that sometimes they all dressed up as cowboys. He was asked what happens when you get hooked. He said that "Morris hooked M and pulled down a zip in his cloak and had taken out his penis and puts it in M's vagina". Liz MacLean asked if there was music, could he hear M crying. B said "I don't look. I don't look". B was asked if they got anything to eat or drink. He said they got juice but the big people drank wine. We asked what sort of music was played. He said The Power of The Night'.

During this interview BW put a chair against the door on the inside of the room. On the sheet of paper used for drawing and noting names during the interview Constable Williamson included the names of two children who were not members of the W family or any of the four families and who were not noted in the summary.

2.82 At about 11.00am on 13th February Mrs MacLean and Constable Williamson interviewed LW. He was told that some of his brothers and sisters had told about incidents in Orkney where adults had hurt some children and he replied that he did not know and that he did not go with them. He said that he went down to the beach. Constable Williamson asked him if PH would be there and he said 'probably'. He subsequently turned on the television and watched it. The records of the interview made by Mrs MacLean and by Constable Williamson in her notebook ended at that stage. However on one evening during the period of her evidence at the Inquiry Constable Williamson came across a note on a sheet of A5 paper in the attic of her home on which she had recorded further information obtained from LW while he was watching the television on the same occasion. The paper had been in her locker at the police station and by mistake had been taken off with a book and other papers and stored in a box in her attic. On it she had noted information about the ages of SB, EB and WB, that their father worked in England and the place where their mother worked, all of which she had learnt from LW. She also noted the full names of Mr and Mrs M and that she had ascertained having put Mrs M's christian name to LW that S and J were their two sons. She put the name of PH to him as it had been mentioned with LW before and learnt that he had one sister but LW did not know his parents. She put Mrs T's christian name to him and noted her husband's christian name and that B and M were their children. She also learnt that Sandy and Lakey had trailers and Sandy had a horse box.

(C) THE SUBSEQUENT
COMMUNICATIONS

2.83 Mrs Liz MacLean reported to the Orkney Social Work Department several times in the course of 13th February. She spoke to Mrs Susan Millar early in the day and during that call Mrs Millar was given to understand that there had already been some statements made and now corroboration of them had been received. She was told that MW had said clearly that she was abused by the Reverend Morris McKenzie, that they danced in turtle suits, and that 'M is clear that this is penetrative abuse'. MW had described going away in a car with a trailer. In the trailer was a table and music. She described a circle and a man in a cloak. She saw Mrs T abuse BW and the Reverend Morris McKenzie abuse QW and Mrs T. She was told that QW had also talked of penetrative abuse and that Mr McKenzie could be called 'the master'. QW had spoken of Mr McKenzie abusing MT and of Mrs T abusing BW and another child P was named as being present as well as WB and SB.

2.84 In a later call from Mrs Liz MacLean on that same day which was in the late morning or early afternoon Mrs Susan Millar understood that BW on 13th February had named other children, namely EB, SB, WB, BT, MT, SM and JM. She understood that it was clear that what was being described was penetrative abuse of all the children and that the children's parents were involved. Mrs MacLean reported that B had also said that 'M cries when the Reverend Morris McKenzie abuses her' and that 'The others were dancing and clapping hands'. She told Mrs Millar that BW had described 'the hook pulling them into the circle and everyone being abused in turn'. Mrs Millar understood that a full transcript would follow by which word Mrs MacLean simply meant a written summary and Mrs Millar added her own comment in her notes that 'This represents corroborative evidence and is grounds for a Place of Safety on the children'. Mrs Millar was also told on 13th February of the children's drawings. She recalled mention of lights drawn on a car and of a wheelchair. Mrs MacLean believed that the children had communicated enough to say that they were describing abuse on themselves and on other children and adults. She believed what the children were saying; she felt that action should be taken and she shared these views with Mr Sam McTaggart.

2.85 Mrs MacLean also spoke on the telephone to Mr Lee on 13th February as Mrs Susan Millar was at the time unavailable. She passed on to him information

on the identity of the B children and told him where their mother worked and that their father lived in England. She also told him that another name had been mentioned, PH, and where he was thought to live.

2.86 By the end of the interviews on 13th February 1991 Mrs Liz MacLean believed that the W children had communicated enough to her to let her know that they had been sexually abused and that this had involved other children and other adults. She told Mr Sam McTaggart that she thought that what the children were saying ought to be believed. Nothing happened subsequently to alter the impressions which she had at that stage. She considered the evidence to be credible and reliable. She regarded the W children's drawings as illustrative of what the children were communicating and possibly supportive of the allegations which they were making. Mrs Liz MacLean considered that assessment of the progress of the interviews was done jointly by the interviewers as a continuous and constant process which took into account how a child had settled, how a child seemed to be feeling, whether a child wished to stay at an interview, and whether a child wished to come back to see the interviewers. But the evidential aspect, if such there was, was a matter for management. Mrs Liz MacLean considered that the person in overall charge of evaluation of the interviews was Mrs Susan Millar, although the RSSPCC and the police would also have a role in evaluation. She had no understanding that evaluation would be a joint process between her and Mrs Susan Millar. She told Mrs Millar that she believed what the W children were saying. She considered that it would be normal for the Reporter to be involved in discussions with her as the investigating interviewer, with the role of an assessor and realised that that part of her work was lacking in the present case. No use was made by the RSSPCC of a psychologist or psychiatrist to assess the interviewing or to advise upon it. Mrs MacLean had on previous occasions consulted such a professional but did not raise the question of seeking such advice on the drawings which seemed to her simply to be illustrative of what was described.

2.87 Mrs Susan Millar was shocked at the news from Mrs MacLean. She informed Mr Lee of the reports of the W children's interviews but the content was not discussed between them. They each understood that there were accounts from three separate sources which corroborated each other. Mrs Millar considered that they could not go further until they obtained a police evaluation, but her own view of the matter must have been clear. In the early afternoon on 13th February Mr Lee phoned C.I. Ratter to tell him that QW had given information supporting MW's allegations. Mr Lee expressed to him his concern and the urgency in obtaining Place of Safety Orders in respect of the children involved. His tone reflected his anxiety to take that course of action.

2.88 Mrs Susan Millar also spoke on the telephone with Miss Chisholm and with Mr Sam McTaggart on 13th February. No mention was made of the disclosures of the W children in her conversation with Miss Chisholm. During one call early in the day to Mr McTaggart she told him of her resignation and of her difficulties in the Department in particular with regard to her relationship with Mr Lee. No mention was made of any developments regarding the W children. Mrs Susan Millar also made arrangements over the telephone that day for Mr McTaggart to visit Orkney and talk to the field workers with a view to improving their understanding of work on child abuse.

2.89 On 13th February Constable Williamson informed Sergeant Hanson that there was information of some form of organised abuse with children outside the W family in South Ronaldsay. She asked for a meeting to be arranged. Before Sergeant Hanson could report to D.C.I. Gough, C.I. Ratter had phoned to inform her of the allegations of the three W children which he had heard from Mr Lee. She passed the information on to D.C.I. Gough and it was agreed that they would meet that evening to discuss the matter. During the morning C.I. Ratter phoned Dalneigh and spoke to Constable Williamson and told her that the Social Work Department intended removing the children mentioned by the W children. After the interview with LW Constable Williamson rang him back and gave him an update of the information gleaned from LW.

2.90 At 5.30 pm on the evening of 13th February D.C.I. Gough had a meeting with Sergeant Hanson and Constable Williamson at Police HQ in Inverness

at which the disclosures were discussed. Constable Williamson showed D.C.I. Gough and Sergeant Hanson the drawings and gave a verbal account of the interviews having her own notebook with her. She explained that the children had had no access to each other for some weeks and indicated her own conviction that the three children had been telling the truth from their own experience. She was told to carry on with the interviews and D.C.I. Gough stressed the confidentiality of the information. D.C.I. Gough asked Constable Williamson to prepare a written version of the interviews and they arranged to meet again on 14th February. On the morning of that day Constable Williamson gave D.C.I. Gough hand-written summaries of the interviews with MW and QW of 12th February which she had prepared. D.C.I. Gough decided to consult with the Social Work Department to see if they could agree jointly how they should deal with the allegations. Only after he had seen the summaries on 14th February did he see the possible outcome as being one of detention of the adults and a search of their houses. He was told on 14th February of Mrs T, Mrs M and Mrs McKenzie as being members of the group who supported Mrs W.

2.91 Sergeant Hanson made notes on 15th February of the meeting on 13th February for D.I. Heddle. She included PH on the basis of a statement by one of the W children according to Constable Williamson's account. On 15th February she noted that Mr B was possibly not involved as he had not been mentioned while his wife had been mentioned. Sergeant Hanson took the view that the disclosures by the W children were of a very serious nature and required to be acted on.

2.92 A sharp question arose in the evidence whether Mrs Millar had known of MW's allegations of 6th February prior to 13th February. She stated in the course of her evidence that she had not but Dr Linda Hamilton hearing a report on the television of Mrs Millar's evidence and in discussion with Mrs Finn was so sure that Mrs Millar was incorrect in her recollection that she telephoned her and her own solicitor and then gave evidence at the Inquiry of what she recalled.

2.93 On 8th February Dr Linda Hamilton had attended a case conference at the Social Work Department at 9.45 am relating to another family. She recalled that at the end of it in conversation with Mrs Millar, Mrs Millar had suggested that the W children had alleged sexual activity extending beyond their own family and mentioned that the Reverend Morris McKenzie was involved. She also mentioned the M family but no other family. There was mention of a forthcoming conference in Stirling and she asked Mrs Millar if she wanted anything brought up. As she recalled it Mrs Millar replied, tongue in cheek, that she might ask how much information the police needed before they could act. She then made an observation about the evidence being enough to sink the Titanic and Dr Hamilton understood that to be a reference to disclosures made by the W children. Dr Hamilton was convinced of the accuracy of her own recollection of the date and the substance of the conversation.

2.94 Mrs Susan Millar was adamant that she had known nothing of the disclosures of the W children before 13th February. It was only during the course of the public Inquiry that she learnt that Mr Lee had been told on 6th February of the disclosure by MW on that date. Mrs Susan Millar had no recollection at all of the alleged conversation with Dr Hamilton at the end of the meeting on 8th February. She accepted that she might have said something about OW and the Reverend Morris McKenzie in reference to OW's statement about him but she was clear in her own mind that she had no knowledge of the allegations made on 6th February until 13th February.

2.95 Dr Hamilton had made several visits to the Social Work Department from time to time and had met Mrs Millar socially on a very few occasions. At one time, in December 1990, she had asked her about the W children merely in an attempt to show support and interest. Mrs Millar felt that she was being put under pressure to talk about the case and appears to have misinterpreted Dr Hamilton's question as an attempt to obtain information which had not been Dr Hamilton's intention. Mrs Millar could not exclude the possibility that on some social occasion she had said something about the case of the nine children. The first she had heard of the W children alleging abuse outside the family was when Mrs MacLean phoned her on 13th February.

2.96 Although Mrs Susan Millar denied having said any of these things to Dr Hamilton the substance of Dr Hamilton's recollections is probably correct. However it does not follow that what Mrs Millar said was a reflection of knowledge by her on 8th February of MW's allegations of 6th February. In light of the information telephoned to the Social Work Department and of the substance of the allegations the reference to the M family alone is curious. The Reverend Morris McKenzie had been mentioned earlier by OW as had been noted in the Camoran log. The ample sufficiency of evidence provided by the children is more likely to relate to the evidence of intra-familial abuse rather than the solitary allegation by one child of extra-familial abuse. While Dr Hamilton's integrity and sincerity is in no way to be doubted the inference which she later came to put on what Mrs Millar had said was incorrect.

2.97 While there were various strands of evidence which seemed to suggest that Mrs Millar might have known of MW's allegations before 13th February the probability is that she did not. No one who knew of the allegations recalled telling her of them before that date. No one recalled her making any reference to them prior to 13th February. Her failure to take any action prior to 13th February and her evident surprise when she was told on 13th February of the later allegations points to her having been ignorant of MW's allegations until then. There was also some evidence from Councillor Annal who was the local councillor for South Ronaldsay which suggested that Councillor Mrs Trickett had knowledge on 7th February of a major development involving Mr M but it is probable that the conversation between them relating to this matter occurred after 13th February.

2.98 In the early afternoon of 13th February Miss Lynn Drever recalled being in Mrs Millar's room while the latter was engaged on the telephone. Miss Drever saw a note on Mrs Millar's desk that Mr McKenzie had been involved in abuse of MW. The note referred to people running in a circle and it referred to turtles. After the telephone call Mrs Susan Millar told Miss Drever that MW was alleging abuse by Mr McKenzie. Between 5.00pm and 6.00pm that evening Mrs Millar's secretary called Miss Drever asking her to attend a meeting at the Department at 9.00am the following morning. At about 6.30pm Miss Drever phoned Mrs Millar at her home and asked her if they were going to have to receive a group of children into care again as had happened with the W children. Mrs Millar's reply was that that could happen. Mrs Millar had no recollection either of Miss Drever's presence in the room or of a telephone conversation with Miss Drever on the evening of 13th February. She recalled only one call that evening which brought her the news of the death of an uncle. That required her to leave Orkney to attend his funeral a few days later. It seems probable that a meeting of the field workers which had already been arranged for 9.30 the following morning was brought forward to 9 o'clock and that some communication of that did require to be made to the field workers.

2.99 On the evening of 13th February 1991 Mrs Susan Millar had much to occupy her mind. She was considering the first reaction which there had been to her letter of resignation which had itself followed on a period of stress and overwork. Added to that had come that day the news of her uncle's death. Now, in addition, there came what appeared to be a shocking indication of organised sexual abuse carried on somewhere on the island of South Ronaldsay and allegedly involving not just members of the W family, but the children and parents of four other families and the local parish minister. She believed that her decision-making power was not adversely affected but, as she also put it, her automatic pilot at that stage took over. The course of action which had occurred to her and which she had recorded in her notes of that day was that of a removal of the children under Place of Safety Orders. Mr Lee's mind had been running along the same line. The idea, once lighted upon, remained without serious review or reappraisal. Although it cannot properly be said that by the evening of 13th February a decision had been reached between Mrs Millar and Mr Lee both their minds were set upon the one course which had immediately occurred to each of them. Discussion may well then have seemed unnecessary and the decision was already a foregone conclusion.

III THE DECISION TO REMOVE THE CHILDREN

I. The Making of the Decision

(A) THE INITIAL DISCUSSIONS

3.1 By the end of the 13th of February it was clearly in the minds both of Mr Lee and Mrs Susan Millar that some nine children should be removed under Place of Safety Orders. They believed that there was corroborated evidence of organised sexual abuse which involved all the children. Co-ordinated action with the police was planned. Mrs Susan Millar denied that any decision was made on the 13th of February and while it is true that that course of action was not determined until 14th February, her own mind and that of Paul Lee must have been firmly set by the evening of the 13th.

3.2 Mrs Susan Millar's confidence that Place of Safety Orders had to be obtained and executed is reflected in the belief held by some of the field social workers that the decision had actually been taken before the 14th of February. While that is probably not the historical reality the thinking on the part of the management was such that the decision was virtually concluded before the morning of 14th February. On 13th February D.C.I. Gough had learned from C.I. Ratter that Mr Lee was intending to take the children into care which is a further indication of how far the thinking in the Social Work Department had progressed before the 14th of February.

3.3 Mrs Susan Millar had intended and had arranged to have a team meeting at 9.30 am on 14th February to consider the possible changes in the Department. On 13th February however an earlier meeting was arranged and the field workers were asked to meet at 9.00 am. The course of the meeting was not planned but was completely fluid. Mrs Michelle Miller, Miss Lynn Drever, Mrs Julie Lee, Mrs Mary Finn and Mr Charlie Fraser attended the meeting although Mrs Susan Millar did not recall Mrs Michelle Miller's presence. Both Mr Lee and Mrs Susan Millar spoke to the assembled social workers. A verbal account was given of the statements made by the three W children, BW, MW, QW, and the mechanics of taking the children into care were then discussed. Mrs Susan Millar told the meeting of the personal circumstances which necessitated her leaving Orkney on compassionate grounds. At some stage early that morning Mr Lee telephoned the police to arrange a meeting with them. They wished to minimise the number of people present and purely for reasons of secrecy did not wish Mrs Susan Millar to attend. Mr Lee however thought that she should be there and requested her attendance.

3.4 Talking continued at intervals throughout the day in the meeting room on the upper floor of the Social Work Department. People came and went during the course of it so that in the eyes of some it was seen as one continuing meeting with interruptions or in the eyes of others as a succession of separate meetings or even as one meeting only in the morning. In the early afternoon Mr Paul Lee and Mrs Susan Millar had their meeting with members of the police force but there continued to be gatherings of the field workers thereafter and discussions at least among some of them during the latter part of the day.

3.5 Over lunchtime Mrs Susan Millar had a meeting with Mr Lee. In preparation for that she prepared a list of priorities to be considered which included the intention to act in co-ordination with the police and the RSSPCC, timing of the removals and whether the Order should be obtained from a Sheriff or a JP. While it was still possible for her to say that she had not decided to apply for the Place of Safety Orders it is evident that her own mind was clearly set in that direction and the making of a decision would merely be a formality. Her thinking at the stage of preparing the list of priorities was in relation to all four families. She and Mr Lee then awaited the police view of the case, Mrs Millar considering it relevant

to bear in mind that the police would work to the standard of evidence beyond reasonable doubt while she would work on a balance of probabilities.

- (B) THE MEETING WITH THE POLICE
- 3.6** At 2.30 pm on 14th February D.C.I. Gough and C.I. Ratter came to the Social Work Department for a meeting with Mr Paul Lee and Mrs Susan Millar. D.C.I. Gough had flown to Orkney that morning and had read the summaries of the interviews of 12th and 13th February on the aeroplane. C.I. Ratter did not discuss the obtaining of Place of Safety Orders with Mr Lee. His impression was from the beginning of the meeting that the Orders would be sought. Similarly D.C.I. Gough agreed with Mr Lee that the likely course would be the removal of the children but had the overall impression that a decision had been made. D.C.I. Gough indicated that there was sufficient evidence to detain the parents under Section 2 of the Criminal Justice (Scotland) Act 1980 and to obtain Search Warrants. He explained the meaning and effect of Section 2 and Mrs Millar was reassured by his confidence. She understood the difference between detention and arrest and realised that the police were intending to detain the parents and that they were working on a higher standard of evidence.
- 3.7** The view of the police was that the adults and children should be removed simultaneously from their homes and that they along with the social workers should hold interviews with the children immediately they were removed. It was not said that arrests would follow. Mr Lee and Mrs Susan Millar felt that such interviews at that time were not in the best interests of the children but it was agreed that there would be one social worker and one woman police constable provided to accompany each child in case they made some statement. The chartering of an aircraft off the island was discussed. Mr Lee asked if the children should be separated and D.C.I. Gough indicated that that would be helpful.
- 3.8** The police were concerned to stress the secrecy of the whole matter in the interest of possible criminal investigations. The enforcement of that together with the formulation of a joint approach were the two main purposes of the meeting in D.C.I. Gough's mind. As C.I. Ratter saw it, it was absolutely crucial that the information did not become known to anyone outside the four persons attending the meeting on the afternoon of 14th February.
- 3.9** It was agreed between the police and the management of the Social Work Department that accommodation should be arranged for the children with breakfast, toys and drawing materials for the period pending their transportation off the island. Following discussion with Mr Sam McTaggart on the 15th of February the idea was developed of finding several safe houses to accommodate the children from the different families separately.
- 3.10** There was some discussion of the medical examination of the children. Mr Lee and Mrs Susan Millar said that the parents' consent should be obtained but that the parents would be told that if they did not consent the examinations would proceed if the child consented. These medical examinations were, as Mrs Susan Millar saw it, for evidential purposes, to clarify whether the children had been sexually abused. A wider ranging 'freedom from infection' medical would be required for a child going into care but she regarded that as premature as the children would only be under Place of Safety Orders and it was not known whether they would be placed in care. Mrs Susan Millar left the matter of freedom from infection medicals to the police and did not ask about it. In the event the Northern Constabulary undertook the arrangements for the children being placed in the Highland Region and the Strathclyde Social Work Department undertook the arrangements for the children who were being placed in Strathclyde.
- 3.11** D.C.I. Gough suggested that a psychologist should be invited to advise on the drawings made during the interviews but Mr Lee and Mrs Susan Millar advised against that course on the grounds that the drawings should not be seen out of the context of the whole history of the work done with the W children since November 1990. The matter was in Mrs Millar's words 'left hanging' merely as a suggestion or as a general point unresolved. She and Mr Lee believed that the evidence was sufficient as it was. D.C.I. Gough had been regarding the advice of a psychologist as relevant to possible future criminal proceedings.

3.12 Consideration was also given to the date and timing of the removal. As regards the date it was in Mr Lee's mind on the 14th of February that the likely date for the carrying out of the removal of the children would be the 27th of February 1991. This had not been clearly resolved with the police at the time of the meeting and D.C.I. Gough believed that an earlier date might be chosen. It was only on the 19th of February that he learned from Mr Lee of the projected date of the 27th of February. It was recognised that time was required to plan the operation and find placements for the children. At some stage a joint briefing meeting with the police and social workers was arranged for 7pm on the 26th of February. As regards the timing of the operation the police considered that a simultaneous uplift from the various houses was desirable to prevent one family warning another and an early morning time was preferred for reasons set out in Chapter 4. The management of the Social Work Department relied to a considerable extent on the police view on this matter and a removal in the early morning was agreed. It was agreed that a Sheriff rather than a JP should be asked to grant the Place of Safety Orders.

(C) THE SUMMARIES OF THE INTERVIEWS

3.13 D.C.I. Gough brought to the meeting copies of the summary statements of what the three W children were alleged to have said. He knew that the interviews had not been recorded on tape. As he recalled it the statements were the three statements handwritten by Constable Williamson being those relating to the interviews with MW and QW on 12th February and BW on 13th February, but not including that relating to the interview with MW on 6th February. They were handed to Mr Lee. After the meeting Mrs Susan Millar had an opportunity to look at them. She did not recall any typed versions arriving on the 14th of February. She identified two statements by MW of 6th and 12th February, one by QW of 12th February and one by BW of 13th February as being the handwritten statements she had seen. She did not recall giving anyone an express opportunity to see them but they would have been in an open file in the office. The police did not bring the drawings done by the children to the Social Work Department. These remained in police custody.

(D) THE POLICE CONFERENCE

3.14 After the meeting at the Social Work Department D.C.I. Gough returned to Inverness. On the evening of his return a meeting was held between himself, D.I. Heddle, Sergeant Hanson and Constable Williamson all of the Northern Constabulary as had been arranged on the previous evening. D.I. Heddle was appointed Officer-in-charge of the inquiry and he was briefed on the case as it then stood. D.I. Heddle was told of the history of the W family, of the people associated in their support and of the results of the interviews with the W children. The supporters were said to be the M's, the T's, Mr and Mrs McKenzie and, it was believed, Mrs B. He understood that Mr B was away from Orkney. He was shown the summaries of the interviews of 6th, 12th and 13th February prepared by Constable Williamson. Constable Williamson had made written summaries on the evening of the 13th of February of the allegations contained in the interviews with MW on 6th and 12th February, QW on 12th February and BW on 13th February. She went over what she had explained on the previous evening to her senior officers, demonstrating the drawings and reporting on the interviews of 14th February.

3.15 The police discussed the material they had and tried to evaluate it. They noted that the information had come from the children separately, that in many areas it was corroborated and that there were factors in the behaviour of the children which had been significant. They decided that they should consider detaining and interviewing the adults who appeared to be involved. Constable Williamson was asked to attempt further clarification of the information given by the children such as detail of dates and places. She later prepared a list for D.I. Heddle identifying those who had been named by the W children. She had learned from LW that W, S and B were children of the B family, that S and J were of the M family and that M and B were children of Mr and Mrs T. Thereafter Sergeant Hanson prepared some notes analysing the allegations for the benefit of D.I. Heddle.

3.16 D.C.I. Gough was confident that the interviews had worked well on a joint basis and he believed that the summaries were accurately recorded by Constable Williamson. He made a personal check of the surnames on 14th February to see the extent of corroboration and was aware of the question which arose about the H family. Sergeant Hanson found no reason to doubt Constable Williamson's integrity or professionalism and she found the allegations believable. There was nothing in the reports from Constable Williamson which prompted her to think again.

II. The Field Workers

3.17 At the end of the day on 14th February the field workers had an opportunity to see what they understood were condensed versions of interviews with the three W children. Mrs Susan Millar's recollection was that the statements were put in the W file and were available for any of the field workers to see. Mrs Mary Finn recalled that they were all in typescript but found it hard to remember for certain, and there was one set for each child. They were in Mrs Susan Millar's office. Mrs Michelle Miller was not sure whether the transcripts were typed or handwritten but recognised the substance of the typed ones. Mr Charlie Fraser thought they were typed and he saw two. Miss Lynn Drever thought they were typewritten but could not recall the highlighting which was marked on the copies produced to the Inquiry. Mrs Julie Lee said that there were three typed transcripts, one for each child. She recognised that the three were not full transcripts with all questions and answers recorded but only summaries.

3.18 The field-workers found the news of the disclosures presented to them on the 14th of February and as illustrated on the summary statements available deeply disturbing. Their reactions were generally of shock, horror or pity. Mrs Finn found the news difficult and painful to absorb because of the number of children and adults involved, which was outwith her experience, and the nature of the abuse described. The situation which faced the Social Work Department on 14th February 1991 was described as one of 'organised abuse'. The term 'ritual abuse' was not used in the Department.

3.19 The social workers also gained the understanding that the police would be making either detentions or arrests of the parents. Indeed most of the field workers understood that the intention was to make arrests which gave a measure of the police view of the seriousness of the case and pointed to the need to care for the children if the parents were to be removed. Most of them understood that the operation was being led by the police and some at least of them believed that the purpose of the Orders was to enable the children to be interviewed and to discover whether the children of the four families could provide evidence to support the allegations made by the three W children.

3.20 The field social workers were not asked to evaluate the information in the statements from the W children. They felt that from the information which they were given there was no option but to remove the children and they all went along with and agreed with the decision. The decision had in any event already been made to act on the information. The field workers did not take part in the decision-making process which was a matter of regret particularly to Mrs Julie Lee. Mrs Finn considered that she did not have the full information and did not think to question the decision. Questioning was indeed limited by the concern expressed by the police to keep the matter secret.

3.21 Mrs Michelle Miller was able to justify to herself the need for Place of Safety Orders on the reading of the statements, the conviction that they ought to be treated seriously, and her knowledge of and trust in those who had the whole information, namely the RSSPCC, the police and the management of the Department. Mr Charlie Fraser noted that the statements which he saw corroborated each other. He inferred that the children were in immediate danger and accepted the need for the Place of Safety Orders. Miss Lynn Drever relied on the understanding that the police would be arresting the parents and on the trust she had for the management of the Department and the other agencies involved. She never

fundamentally questioned the proposed action accepting the evaluation of the management, the RSSPCC and the police. She assumed there was other evidence of which she had no knowledge.

3.22 Mrs Julie Lee had only joined the Social Work Department on 4th February 1991 and while questions rose in her mind she accepted all that she was told and the professionalism of the police, the RSSPCC and the management. Questions about the interviews and about the techniques employed were discouraged. The abrupt style of the response to questions implied to her mind that the asking of questions would give rise to doubts about the competence of the questioner as a child-care worker. She felt the need for more information for her own satisfaction or self-justification but felt that she had to accept what was being put to her and defer to the management.

III. The Time Of The Decision

3.23 That Place of Safety Orders should be obtained and executed in respect of the children was not the subject of any formal decision reached after discussion and recorded in the formal minute of any meeting. It thus becomes difficult to focus upon the moment when a decision was reached to adopt that course. Mr Lee spoke of it as a decision in principle but also as a provisional decision. Mrs Susan Millar spoke of it as a gradually evolving decision and a decision in principle. They both pointed to the fact that events between the 14th and 26th of February might have occurred which might make a Place of Safety Order inappropriate. For example other evidence contradictory of that already obtained might emerge, or one or more of the W children might retract what they had said. Again placements might not be found for the children. But these considerations only go to show that the decision was, like many decisions, not irrevocable before it was implemented.

3.24 It appears that there was no precise point when a formal decision was reached. The likelihood that Place of Safety Orders should be sought was in the minds of Mrs Susan Millar and Mr Lee by 14th February and with their feet once set on that path matters proceeded towards the preparation for and execution of that course of action. By the time of the meeting on the afternoon of 14th February attended by Mr Lee, Mrs Susan Millar, D.C.I. Gough and C.I. Ratter it seemed clear to D.C.I. Gough that the decision had been taken although the specific children had yet all to be identified. On that occasion Mr Lee asked the police whether they thought that taking the children into care might be an end result and D.C.I. Gough agreed that it might. The views of the management in the Social Work Department were plainly influenced by the view of the police on how they should proceed and the probability is that at least after discussion with the police a firm decision had been made. Indeed at one point in her evidence Mrs Susan Millar stated that the decision was formally taken by Mr Lee on the afternoon of 14th February in conjunction with the police and with her full agreement. While the removal of the children was spoken of at the meeting on 14th February as the likely outcome or as a matter of 'strong probability' for all practical purposes a decision had been made.

3.25 The expression which Mrs Susan Millar used to describe the decision making process, that the decision 'evolved' reflects the way in which the decisions were accepted as having been made although there had not in some cases at least been much debate about them. The matters of the timing of the uplift, of access, of the separation of the children and the prohibition on their taking personal possessions with them received little significant discussion in the Department after 14th February and it was only when the mainland workers arrived that the questions were asked which might have been asked earlier. Mrs Susan Millar recalled that no serious reservations were expressed in the week after 14th February and she took it that no such reservations were held. But her relationship with the field workers was such that they did not feel encouraged to express any reservations which they had and their acquiescence was understood as agreement.

3.26 All of the field social workers understood after listening to Mrs Susan Millar early in the day that a decision had already been taken that the children should be removed. Indeed they believed that the decision had been taken before the 14th February or at least before the meeting with the social workers started on that day. However they also recalled their understanding that the decision had been taken by Mrs Susan Millar and Mr Lee after consultation with the RSSPCC and the police. The clear impression which the social workers received from Mrs Susan Millar on the morning of 14th February that a decision had already been made is to be seen as a reflection of Mrs Millar's own state of mind on the matter and her evident belief that the children would have to be removed even before the matter had been determined by the management in consultation with the police.

IV. The Basis For The Decision

(A) THE VIEWS OF THE
MANAGEMENT

3.27 In Mr Lee's mind the basis for the decision was the material disclosed by the three W children verbally and on drawings. He understood that the drawings matched and were enhancements of what was said although he had not seen them. There was no other direct evidence but he was influenced in his view of it by the Department's experience of the W family in the past, the support which that family had received and the absence on the part of the supporters of any concern about abuse within the family in contrast to his own belief that proof of intra-familial sexual abuse had been obtained. He took account of the state, serious nature and long duration of the abuse. He suspected that the supporters of the family had more knowledge than they indicated and he was not prepared to accept that those supporting Mrs W were not in collusion with her. That some of the parents of the families who had supported Mrs W were involved in the allegations was a factor in his consideration. He recalled that prior to 4th December 1990 there had been mention of Morris and horsey games and that Mr M had represented Mrs W at a Children's Hearing. Mrs Susan Millar on the other hand while she had had some view of the files relating to the W family had not picked up the various references to Mr or Mrs M or Mrs T as helping the W children or supporting Mrs W.

3.28 Mr Lee was impressed by the consideration that the statements of the three W children had been made separately and on different occasions by three children who had not been together since 4th December. Corroboration was in his view vital. He understood that the statements had been made in a matter-of-fact way and seemed to have been within the child's experience. He did not consider that he was required critically to explore the probabilities that the events described by the children had happened. It was enough to consider the way in which the children had indicated what had happened. Evaluation of the contents of the disclosure was not for him but would come in a future hearing. The persons hearing the disclosures thought they were serious and corroborated and accordingly the allegations were taken as reliable.

3.29 Mr Lee believed that the children had been sexually abused and were at risk of further sexual abuse. He believed that the substance of what was said in the later interviews with the W children on 14th, 20th and 23rd February was known to his Department by 27th February but nothing which was learned between the 14th and the 27th of February altered, strengthened or modified the view which he had. In the opinion both of Mr Lee and of Mrs Susan Millar there was a risk of harm to the children. It was hard to say that the risk was immediate, but an interval of time had to be allowed to make arrangements for the removal. A balance had to be made between urgency and a proper assessment of the situation. Mr Lee was aware that the removal of the children would lead to some public outcry and that made the decision more difficult. But he felt he could not ignore the evidence he had and that he had to act as he did.

3.30 Mrs Susan Millar was not deterred in her judgement by the consideration that the sources of the allegations were three children who came from a background of significant abuse. She considered that abused children were no less likely than other children to tell the truth. Her view that the children should be removed was

based essentially upon the allegations as Mrs Liz MacLean had presented them to her on the telephone on 13th February. She knew of the drawings by the children but had not seen them. While she described her first assessment before she had the summaries as very preliminary it is plain that her mind was fairly firmly set even on 13th February. She assumed that the allegations had not been sought nor pressed for and at least before 14th February she did not discuss the quality of the evidence. She relied on the experience of Mrs MacLean and Constable Williamson and she believed that the information coming from the RSSPCC and the police had been assessed internally by those agencies. She sought to approach the problem objectively and without personal animosity. Her general understanding of organised abuse was such as to stop her from dismissing the matter as fantastic and the mutual corroboration within the statements from the three children made it less likely to be fiction. She took account of the point stressed by Mrs MacLean and Constable Williamson that the three children had been separated for over two months. She thought that the allegations by the three W children had to be taken seriously and she believed that their truth would be tested in court if it was challenged. Her view as at 14th February was that the children had probably been abused.

3.31 Mrs Susan Millar had regard to the earlier history of the association of Mrs T and Mr and Mrs M with the W family, to their support of Mrs W in opposing the removal of the W children and to Mrs W's denial of the grounds for referral despite the medical evidence. She also had regard to the remarks by OW which had been recorded in the log-book at Camoran and to the correspondence which now seemed to her to have a connection with the allegations and lend a credibility to them. However she would not have considered it appropriate to remove the children on the basis of the correspondence alone and she would still have thought it justifiable to remove them on the evidence of the allegations which had been conveyed to her even without the correspondence.

3.32 At their meeting on the 14th of February D.C.I. Gough and D.I. Heddle sought to make a critical evaluation of the situation. They considered and rejected the possibility that the allegations had been inspired by TV or videos or imagination because the information had come from three separate sources so as to exclude collusion, there was some corroboration, and the children's behaviour in response appeared to have been genuine.

3.33 In assessing the evidence D.C.I. Gough had regard to the timing of the disclosures and the mood of the children at the time as he understood it. He considered that BW's action in putting a chair against the door was an instinctive response which suggested credibility. He was impressed by the drawings which also seemed to suggest credibility by being an illustration of what the children were saying, and in particular he was struck by the spontaneous details in the drawings such as those of a cloak with a hood, the headlights on the car, the child with mouth turned down to illustrate the child crying. He paid no regard to the correspondence as he only heard of that after 27th February and was proceeding almost wholly on the disclosures. After D.I. Heddle had looked at the evidence he took the view that there were sufficient grounds to suspect that a criminal offence had been committed. He regarded Constable Williamson as a reliable officer of sound judgement and he understood that she believed the allegations. He believed that Mrs MacLean had even greater knowledge of child abuse and he had no reason to doubt what he was being told. On the basis of his reliance on them he decided to detain the three sets of parents.

(B) PROFESSIONAL ADVICE **3.34** There were factors within the knowledge of the Social Work Department which might have had a bearing on the assessment of the evidence derived from the three W children. The children had been taken from their natural environment under Place of Safety Orders and would be expected to have thereby suffered some trauma. They had initially been placed together and had been found to be a difficult group to manage. The three children MW, QW and BW had been separated although only one was totally separate. SW and QW had been together from 4th December 1990 as had BW and LW, although the other children had been totally separated. There was the history of the criminal proceedings so far as the father

was concerned. The children were more sexually aware than children of their ages ordinarily would be. Three of the girls had been found to have suffered chronic penetrative sexual abuse. Some of the abuse had in the opinion of the examining doctors occurred after the date of the father's imprisonment. Others had suffered physical abuse which was substantial and horrific. Mr Lee took account of the disturbed family environment but did not consider that he was an expert on the subject of disturbed children.

3.35 Despite this history no consideration was given by Mr Lee before making the decision to remove the nine children to the possibility of having the three W children seen by a child psychiatrist or child psychologist. Mr Lee considered that the assessment made by Mrs Liz MacLean of the RSSPCC was sufficient. Mrs Susan Millar did have some thought of contacting the Young People's Unit at the Royal Edinburgh Hospital but that was for support rather than evaluation of the children. Mrs MacLean had not been particularly concerned at the behaviour of the W children and was under the impression that the question whether a psychologist or a psychiatrist should be involved was under constant review by the case manager, so that no invitation for a professional assessment came from her on or after 6th February.

3.36 The possibility of having the evidence as distinct from the three W children themselves assessed by a psychiatrist or a psychologist was not considered by Mr Lee. He was content to accept the expertise of the RSSPCC and to proceed on the belief that they knew what they were doing and that the matter would be left to them. He understood from what Mrs Susan Millar had told him that Mrs Liz MacLean had extensive experience in work with sexually abused children and he understood that Constable Williamson had had training in such work with the police. The possibility of obtaining a psychiatrist's or psychologist's view on the drawings by the W children was raised at the meeting on 14th February with the police but the representatives of the Social Work Department advised against that course on the grounds that the drawings should not be viewed out of context. The possibility of obtaining an expert assessment of the evidence beyond the drawings only developed in D.C.I. Gough's mind later.

(C) FURTHER ENQUIRIES

3.37 No enquiries were instigated by the Social Work Department with a view to appraising the likelihood of the truth of the allegations made by the three W children. In the case of some of the local residents it was thought that because of their previous actings in connection with members of the W family they would be an unreliable source of information. Thus Mr Lee was uncertain about the local general practitioner Dr Broadhurst as a safe source. It had not been forgotten in the Social Work Department that Dr Broadhurst had had some knowledge of the retention of SW the previous November when the attempt had been made to take her to a place of safety.

3.38 So far as the police were concerned enquiries of the parents would have destroyed the purposes of an ordinary police enquiry and the police felt that they were unable to go around South Ronaldsay asking questions about the alleged activities of the families. They did mount some covert enquiries but they did not consider making enquiries at night-time. They did not carry out any significant search for a quarry and they considered surveillance to be impracticable. They believed that the local constable, Constable Raeburn, who had been there for a number of years would be noticed if he endeavoured to carry out any such surveillance. Some enquiries were made by D.S. Sutherland and Constable Raeburn. They attempted to ascertain whether Mrs T possessed a car with a trailer, as had been suggested by the W children, and they made enquiries of one private individual. The enquiries which were made gave the police no reason to think that there were any activities going on at that stage in the open air of the kind in which they were interested. But they were not aware if anything might be proceeding behind closed doors. Such enquiries as they made before 27th February did not achieve more than a confirmation of the addresses of the four families. The police considered that it was an area in which secrets could not easily be kept and detailed police observations could not easily escape notice.

3.39 There were however others who evidently might safely and confidently have been approached for information. One was Mr MacKenzie the former Deputy Director of Social Work who was living in retirement in South Ronaldsay. Mr Lee said it would not have been appropriate to speak to him but he was a person whom he could trust. In fact he did not consider speaking to him. There was no reason to doubt that the Head Teachers both of the Primary School and Kirkwall Grammar School could be trusted to treat enquiries as confidential. Others who might have been safely approached for any information they might have, included Mr Michael Thorpe who worked for the Social Work Department and lived near the four families, Councillor Annal who lived in South Ronaldsay and who would have been happy to give any help he could, a Sister MacFadyen, the Lord Lieutenant, the District Nurse and Mr J Dick a Special Constable. Mr and Mrs M's eldest daughter, then a student in Aberdeen, could have provided a quantity of background information about the family and about Mrs B. Mr Lee said that it would not have been possible to have cross-checked the allegations by local enquiries but there is no evident reason why some enquiries should not have been made.

(D) **CONSULTATION** **3.40** No meeting or case conference was held to discuss the allegations and to determine the action to be taken. It would have been usual to hold a multi-agency case conference to discuss a new case. But in the present case the police were stressing the need for secrecy and Mr Lee and Mrs Susan Millar felt that the information they had was sufficient to justify the removal of the children. On 26th February Mrs Susan Millar actively pressed Mr Lee to hold a case conference and case conferences were eventually held at later stages. There were discussions between the Social Work Department and the police and between each of them and some other agencies for obtaining information but no general joint discussion with all the interested agencies present. The 'case' tended to be regarded as a single case involving several children. That approach tended to obscure a critical analysis of the position of each child as an individual person of concern. None of the nine children were on the Child Protection Register.

(E) **ASSESSMENT OF THE RISK** **3.41** In the course of their evidence both Mr Lee and Mrs Susan Millar at times expressed their assessment of the position as at 14th February in terms of a belief that abuse might have been committed. But at other times especially when the matter was approached by more careful questioning they were able to respond with a formulation which accorded more with the statutory requirement of Section 37(2) of the Act of 1968 to the effect that they believed that an offence had been committed. While in retrospect they could both say truthfully that they believed an offence probably had been committed it does not appear that they had consciously focused upon that question on 14th February and while they had agreed that the children should be removed to places of safety they had not consciously addressed the legal justification for the course under any particular subparagraph of that section.

3.42 Having accepted that the allegations made by the three W children were true Mr Lee and Mrs Susan Millar had also to consider whether there was a risk of the abuse continuing. They had no information on the date or dates on which the alleged incidents occurred but at the latest they could not have taken place after the W children had been removed in early November 1990. There was also a question whether their removal would have led to a cessation of the activities which they described. Mrs Susan Millar pointed to her understanding that the incident described by MW had occurred on Guy Fawkes day, 5th November, very soon after the removal of OW and she concluded that the continuation of abuse after the removal of one child demonstrated the relentlessness of the adults' abusive practice and pointed to the probability of its continuation. That was the only ground she had for believing that the abuse was continuing and she had no other indication one way or another.

3.43 While the police officers most closely involved in the critical consideration of the problem accepted that the children at least of the M, T and B families were at risk this was in general expressed as a matter of possibility only. Sergeant Hanson, who was D.I. Heddle's administrative assistant considered that there was

no evidence of continuing abuse to anyone. She believed that it might have stopped because people would be conscious of a police investigation into the W family. She described the perception which both the police and the Social Work Department shared as being that the alleged abuse broke off in November 1990. The urgency in the case as she saw it was an urgency to act because the police had just heard of the matter. The police had an interest in the children who were to be removed as being potential witnesses of abuse which had occurred in November. They regarded them as children who were possible victims of abuse. D.S. Sutherland thought that it was possible that abuse was continuing outside or alternatively that the fear that the W children had disclosed abuse might lead the abusers to change their practice and that the abuse might be going on somewhere inside hidden away.

(F) ALTERNATIVE COURSES **3.44** No consideration appears to have been given to the possibility of any alternative course than that of Place of Safety Orders although Mr Lee said that the possibility of searching the houses and detaining the parents for interview was considered in general terms. Mr Lee considered that the evidence of the strident support of the W family and the fervour with which the supporters of that family said that the W family was not involved in sexual abuse gave rise to a possibility of the risk of assaults on or intimidation of the nine children if they were left where they were. He saw no alternative to a removal to the mainland of Scotland in light of the absence of resources in Orkney to afford the children space and time. The reasons for the course in Mr Lee's mind were three-fold: he was concerned that any abuse might continue, he wanted to give the children an opportunity to talk, and he wished to see if evidence might come from the children to help the police or the Reporter. All of these he conceived to be in the interests of the children. He anticipated that the police might be making arrests and the children might be left unprotected or at the mercy of potential abusers thus requiring the removal of the children to places of safety.

V. The Reporter

3.45 Both Mr Lee and Mrs Susan Millar saw the responsibility of the Social Work Department in assessing the case or evaluating the evidence as in some respects limited. The view that Mrs Millar took was that she had no reason to disbelieve the evidence and it was up to the Reporter to decide on its sufficiency. She assumed that the police had assessed the standard of the evidence and the methodology of the interviews. Mr Lee expressed the view that the evidence had given rise to a reasonable suspicion of a network of abuse and it was not for him to form a view about its accuracy. He considered that the situation was one which should be dealt with through the Reporter and through a Children's Hearing. In terms of Section 37(1A) of the Act of 1968 he took the view that the children might be in need of compulsory measures of care and accordingly he informed the Reporter. He regarded the information which he had received as serious and needed no more information before informing the Reporter. He proceeded to apply for the Place of Safety Orders on the basis of the allegations made and the suspicions he had of the four families and he hoped that a proof would deal with the whole matter so as to discover whether there was or was not sexual abuse of the nine children.

3.46 The social workers were given to understand that the Acting Reporter Mr Sloan had been informed about the situation or even consulted about the sufficiency of the evidence. Mrs Susan Millar had a note in her own records suggesting that she had made a telephone call and sent a fax to Mr Sloan on 14th February. In her evidence she presumed that this would have been the sending to him of the summary reports which the Social Work Department had received that afternoon. But investigation disclosed that no fax communications had been sent and the alternative explanation which Mrs Millar suggested that the note was a reference to the necessity to discover Mr Sloan's fax number was probably correct. It appears that no written reports of the interviews with the W children were passed to Mr Sloan prior to 27th February and Mrs Millar did not speak to him about the case

of the nine children at least prior to her leaving Orkney on 16th February. However he was told when he visited Orkney on 18th February of the allegations made by the W children and of the intention to apply for Place of Safety Orders and he could have seen the summaries if he had asked to see them.

IV PLANNING AND PREPARATION

I. The First Steps

(A) REQUESTS FOR HELP **4.1** On the afternoon of 14th February 1991 Mr Lee set about preparing for the removal of the children. This took up a considerable amount of time in addition to the usual duties of the Department. In setting about making preparations for their removal it was recognised that a degree of secrecy should be maintained lest pressure be brought to bear on the children to refrain from disclosing matters which they might otherwise disclose after their removal. Mr Lee suspected that there was a network of child sexual abuse and that called for a particular approach. Because of the character of the case as he saw it he considered it inappropriate to approach the parents and discuss the case with them as he might otherwise have done. The case in his view was outwith any situation covered in existing guidelines. He also felt restrained on account of the criminal investigation.

4.2 On 14th February 1991 after the meeting with the police Mr Lee sent a request for assistance to the Directors of Social Work of all the Regions in Scotland. It was despatched by fax from Orkney between 4.45 and 5.00 pm that evening. In this communication Mr Lee referred to the earlier placements obtained for the eight children of the W family and stated 'It is now possible that we will need to take place of safety orders on a further ten children from three families'. He then proceeded to ask as a matter of urgency firstly for five extra social workers for up to a week possibly from 25th February. He added 'It is important that these workers have experience in work with sexually abused children. They will be involved in initial interviews jointly with police, with the children and families involved'. Secondly he stated that he would need three month placements for the ten children. He stated that 'It might be beneficial to have separate placements at this stage' and that they needed to be within travelling distance of RSSPCC Centres or other Centres which might be available for disclosure work. He explained that full details of the children were not yet available but 'the age ranges are within the primary school ages'. He stated that as far as he was aware there were four boys, three girls and two of unknown sex as yet. He also asked for three locum social workers for three months for general social work in Orkney as well as recommendations on persons who could fulfil an advisory or consultative role to assist and in particular to counsel the staff. The discrepancy in the number of children mentioned in the fax did not evidently cause comment.

4.3 By stating that the five short term staff which he requested should be 'involved in initial interviews', Mr Lee meant that they would help with the reception of the children into care and attend at the initial contact with the families involved. The 'initial interview' was however open to interpretation and could be understood as meaning the holding of a formal interview. The whole sentence was so loosely written as to give rise to misunderstanding by the social workers who responded, of the role which they were expected to perform. Experienced social workers would expect to play a greater part than merely accompanying the children.

(B) PLACEMENTS **4.4** So far as placements in Orkney were concerned a completely fresh survey was required of foster placements which might be available. While Camoran was registered for ten children it was not desirable nor practicable from the staffing point of view to accommodate so many within it and in any event the consideration that the children should be separated pointed to the undesirability of using Camoran even if thought had been given to it. A further consideration which did not predominate in the thinking of the management was the recollection that there

had been a considerable involvement of the media in the taking of the W children into places of safety and a similar involvement in the present case could make placements within Orkney particularly vulnerable. Mr Lee also feared that there might be a repetition of the public demonstration which had occurred in connection with the W children when accommodated there. Camoran was the only residential facility available to the Social Work Department and since it was unsuitable and there were not sufficient foster placements in Orkney the decision was quickly reached that any placement would require to be outside the Island.

4.5 Moreover Mr Lee preferred that separate placements should be found for each of the children. This course was in line with the thinking of the police and of the RSSPCC. The matter of separation of siblings had arisen in relation to the W children and had been discussed in that connection. Some of the W children had been located in separate placements after having been for a time accommodated together with some of their siblings. The present case was viewed by Mr Lee as a continuation of that case. As Mrs Millar accepted, the matter was open to differences of expert opinion and the propriety of separation depended upon the circumstances of each case.

4.6 There were a number of reasons for wishing to keep the children separate from each other. Some related to the facilitating of a disclosure. It was considered that if each child was given his or her own time and space the child might be enabled to speak more freely if he or she wished to do so. The isolation would give the child time and space on his or her own to reflect and talk, to feel safe, to expose any fears or concerns and thus facilitate a disclosure. From discussions with Mr Sam McTaggart and Mrs Liz MacLean of the RSSPCC, Mrs Susan Millar understood that each child would need time and space on his or her own to reflect and talk. She believed that the isolation from a child's possessions and from his or her siblings would not undermine the ability to disclose but on the contrary potentially assist in disclosures.

4.7 Another consideration was the danger where one child remained with an older or dominant sibling of the latter child 'closing down' the former and discouraging the former from telling what the latter did not wish to be disclosed. There had been experience of this happening with certain of the W children. The matter had been discussed in that connection and the present case was seen as a continuation of that case. Mrs Millar was averse to starting with the children together and then separating them. She considered that the case for isolation of the children was stronger in cases of organised abuse when the risk of pressure against disclosure was all the greater.

4.8 Another consideration was that if any child did tell of abuse then for the purposes of evidence in any subsequent legal proceedings the account so given would be open to greater respect if the child had not been in contact with a sibling who could have inspired the story, or prompted it or even conspired to present a false story. A dominant child might inculcate a particular version of an incident into the other so as to taint or colour the evidence which the other might give. Moreover if the evidence of one was corroborated by the evidence of another it would add weight to the effect of the whole evidence if the two children had been living apart from each other. Conversely the evidence of a child who had been accommodated together with his or her sibling could be open to challenge in any court proceedings as having been contaminated by discussion with those siblings and another element in the desire to have the children accommodated separately was that of the police to enable matters of evidential interest to be gleaned without contamination.

4.9 It was recognised that the separation from brothers and sisters could cause additional distress to the children. They were to be removed from their homes, separated from their parents and prevented from taking personal possessions with them. Separation from their brothers and sisters could increase their sense of isolation. Mr Lee recognised that it could be upsetting but he still considered it to be in the best interests of the children. There was some division of opinion among the field workers in the Social Work Department of the propriety of separating the siblings in the present case. Mrs Michelle Miller for one doubted the wisdom of separating the siblings and would have been inclined to allow them

to be placed together. However she deferred to the views of those whom she believed to have the greater knowledge and to their seniority. On the other hand Mrs Julie Lee considered that splitting the children was acceptable in the short term but that access should be allowed after any initial information had been obtained from them.

4.10 The decision that the children should be separated was discussed with Mr Lee on Friday 15th February when he and Mrs Millar were both engaged on initial work relating to the kind of placements which would be ideal. It was decided that not only should the children be separated but that no access by a parent or sibling should be allowed at least initially in the belief that the absence of contact would accelerate investigation work with the children. Mrs Millar intended that once the co-ordinators had been appointed for the children it was up to them to consider the possibility of access. The progress in the interviews would have been a factor in that consideration.

4.11 On the afternoon of 14th February Mr Lee telephoned Mr Colvin of SWSG and told him that allegations had been made that a number of children and adults had been involved in sexual abuse and that he was intending to seek Place of Safety Orders from the Sheriff on up to nine children of three or four families in a joint operation with police. The Minister of State had for some time taken an interest in the child care work of the Orkney Social Work Department and as recently as 4th February 1991 Mr Colvin had prepared a minute for him about the current position. On 15th February Mr Colvin prepared a further minute for the Minister of State giving further information on the latest developments in Orkney with regard to the alleged child abuse.

(C) FURTHER MEETINGS **4.12** While recognising the confidentiality of the whole matter Mr Lee gave some information about the situation to certain senior officials of the Orkney Islands Council. These were Councillor Mrs Mhairi Trickett, the chairman of the Social Work Committee of Orkney Islands Council, Mr Gilbert, the Chief Executive of the Council, Mr McCallum, the Director of Law and Administration, Mr Jackie Tait, the Convener of the Council, and Mr Alistair Scholes, the Vice Convener.

4.13 On 15th February further communications were made with the mainland of Scotland with a view to pursuing the search for placements for the children and additional assistance. Mr Lee and Mrs Susan Millar each contacted the authorities with whom they had previously worked. From Lothian Region Mrs Millar obtained the suggestion that she contact Mrs Susan Brown as a possible consultant. Responses were received from Grampian and Lothian with suggestions for placements but in each case the offer was one implying joint accommodation. At about this period the field workers in the Social Work Department were advised to clear their diaries for a fortnight and to bring forward any meetings and reviews to which they were already committed. On the 15th of February arrangements were also made for a meeting with police to be held on 26th of February at 10.30am.

4.14 Contact had earlier been made with the RSSPCC to obtain support for the field workers in the Social Work Department. As a result Mr Sam McTaggart of that Society who was the manager responsible for Mrs Liz MacLean came up to Orkney for two days on 15th February. On his arrival Mr McTaggart met with Mrs Susan Millar for an hour before going on to talk to the field workers. Mrs Millar brought him up to date on the discussions held on 14th February and they discussed the suggestion that the children should be removed before school. He was told on 15th February of the decision to take Place of Safety Orders on the nine children which included the H children. The names and ages of the nine children were known by that time. Arrangements were planned for the briefing and debriefing of the workforce. He understood from Mrs Susan Millar that the parents would be taken into custody by which he understood arrested and charged so that they would not be at liberty after the 27th of February. Only on 26th February in discussion with her, Mr Murphy and Mr Fraser did he learn that a six hour detention period was all that was envisaged. But he still understood that that would be followed by the bringing of charges so his thinking was not significantly affected.

4.15 Most of the discussion on 15th February between Mrs Susan Millar and Mr McTaggart concerned the possibility of the RSSPCC providing staff to help in the removal of the children. The RSSPCC were also invited to carry out interview work with the nine children. The suggestion was made that a full-time secondment of Mrs MacLean to the Orkney Islands Council might be made but this was not acceptable to the Society. The Orkney Social Work Department was wishing to secure Mrs MacLean's services for the interview work. Mr McTaggart referred these requests back to the Society as the decision required to be taken at a higher level. It was agreed that they would provide two staff to help in the removal, namely Mr Leslie Hood and Miss Lindsey Stevenson, and that interview work would be undertaken by Mrs MacLean in the Highland Region and by Miss Lindsey Stevenson and Mr Hood in Strathaven. Some of Mrs MacLean's responsibilities had passed to Miss Janette Chisholm and since work with the W family was running down Mrs MacLean was able to undertake the new workload.

4.16 After talking with Mrs Millar, Mr Sam McTaggart addressed a meeting of the Orkney social workers in the Social Work Department. It was attended by Mrs Susan Millar, Mrs Mary Finn, Mrs Michelle Miller, Miss Lynn Drever, Mrs Julie Lee and Mr Charlie Fraser. The five workers generally were not very familiar with the techniques of interviewing children in cases of alleged sexual abuse and wanted to know more about them. There was some confirmation of what had happened at the previous day's meeting and some information given about the readiness or otherwise of the W children to be interviewed. Mr McTaggart's assistance was sought on the handling of a case which was beyond the normal experience of the field workers. It was arranged at the meeting that Mr McTaggart would return about a week later with a demonstration video to speak to the Orkney field workers on interview techniques and to give guidance on the problems of removing children under Place of Safety Orders.

4.17 On 15th February Councillor Mrs Trickett met Mr Sinclair at the Scottish Office in Edinburgh. Mr Sinclair was to discuss certain correspondence relating to the W case which was critical of the Social Work Department. They had wide-ranging discussion. She spoke to him about the tensions in the Department and in particular the working relationship between Mr Lee and Mrs Susan Millar. She was concerned about the costs incurred in the restructuring of the Department and in the dealings with the W family. There was also a brief mention of the possible removal of the nine children. Mrs Trickett was worried about the financial implications. It was understood that Mr David Colvin, the Chief Social Work Adviser to the Secretary of State for Scotland would shortly visit Mr Lee in Orkney. Mrs Trickett returned to Orkney on 16th February and learned more details from Mr Lee. She saw the summary statements from the W children and for the first time saw the names of those allegedly involved. Mr Lee stressed to her the need for confidentiality.

(D) INFORMATION ON THE
FAMILIES

4.18 At the stage when the decision was made to remove the children the Department had very little information about the four families. Even the ages and number of their children were uncertain. Inquiries were made from certain officials of the Education Department and of the Health Board in order to ascertain if those authorities had any knowledge of the nine children. Inquiries were also made through Dr Linda Hamilton, the Senior Clinical Medical Officer for Orkney, regarding the number of children there were in each of the four families. Dr Hamilton made a note of the names, addresses and dates of birth of the nine children for Mr Lee. He did not ask her for any medical information about the children and between the 14th and 18th of February she was not contacted about any medical procedures which might be carried out after the uplift. On the 18th of February she met Mr Lee in the Social Work Department and he explained that things were going to be very difficult as the nine children were to be taken into care as a result of statements made from children of the W family alleging sexual activity among the four families involving the nine children, their parents and the Reverend Morris McKenzie. Mr Charlie Fraser was instructed to check the Department's files to see if there was any information on the families. His search for information on the four families in the Department only produced one old

record relating to the B family which was of no significance and related to a separate matter wholly unconnected with the present case. Mr Drever the Acting Director of Education learnt of the situation at a meeting in the Social Work Department on the afternoon of 14th February and later that day told Miss McLeman, the Headmistress of St. Margaret's Hope Primary School, in confidence that certain allegations involving sexual abuse were being made against certain families in South Ronaldsay and she gave him certain names, addresses and dates of birth.

4.19 The Social Work Department would have liked to have had some knowledge of the families before taking the children into care. Their knowledge of the T family went little further than their understanding of the contact which that family had had with the W family as reflected in the correspondence to the W children. The Department were not aware that the family were Jewish. Similarly there was an awareness of the contact which the M family had had with the W family and Mr Lee was aware at least by 27th February that they were Quakers. Nothing was known of the B family beyond the contact some time before in relation to a wholly separate matter. Nothing was known of the H family beyond what could be learned through the Education Department. The only information which the Social Work Department had on the families before 27th February came from the schools attended by the children. The Social Work Department considered that no social assessment and no investigation as required by Effective Intervention could be made in the circumstances of the case. Both Mr Lee and Mrs Susan Millar and the police officers Gough and Heddle felt that it was inappropriate in what was believed to be a case of wide-scale organised abuse to make enquiries of the children, their parents, and all the various agencies and authorities as would normally be done. Up until 27th February all documentation relating to the matter of the nine children was filed in one file. Only after 27th February were separate files created for each family.

(E) THE PLACE AND TIMING
OF THE REMOVAL

4.20 The place and timing of the proposed removal of the nine children from their homes had as has been mentioned in Chapter 3 been a matter of discussion between Mr Lee and Mrs Susan Millar and the police on 14th February and was taken further in discussion with Mr Sam McTaggart on 15th February. The view reached by 15th February was that a removal from their homes early in the morning before the children left for school was appropriate but the precise hour was still to be discussed with the police. The police preference was for the early morning before school and for a simultaneous operation. The field workers went along with this preference in the particular circumstances although as a matter of general rule they would have considered it to be unacceptable. The management were aware of past criticism of removing children in the early hours of the morning, but they felt in the particular circumstances of the Island situation with the practical problems of transportation involved that it was the appropriate course to take. There were a number of reasons for this decision. In particular consideration was given to the need for a sudden, simultaneous and secret operation, to the past experience with the W family, to the desirability of the children reaching their placements in daylight and to the timing of the school buses.

4.21 It was desired that all the removals should be carried out in secrecy and simultaneously, lest advance warnings might be given, surprise lost and some of the children be hidden or taken away or some evidence be destroyed. The Social Work Department had already had the experience of the case of SW where the child had been taken away from her home before the social workers arrived to serve a Place of Safety Order and was only recovered with difficulty on the following day at the premises of the Children's Hearing. This incident had some influence on the present decision. It was desired to minimise any risk of local support frustrating the removal of the nine children. It was felt that the most likely occasion when all the children and their parents would be together would be at home in the early morning, so that the children would have the presence and support of their parents at the time of removal.

4.22 The Social Work Department had very much in mind the public outcry which had followed the removal of certain of the W children under Place of Safety

Orders in early November 1990. They had removed those children from the school which they were attending and had met with criticism both of the fact that they had removed them from school and of the manner in which it was said the removal had been carried out. It was felt better to remove the children while they were with their parents at home and on the available information no more likely time was known for that to be the situation than the early morning.

4.23 The police insistence on secrecy made it impracticable to investigate the family routines. Discussion with the parents of timing would not always be a usual course and advance warning to the families was not reasonable nor advisable in a situation where it was suspected that the parents were themselves involved. In the circumstances it was considered not practicable to prepare the children or the parents for the removal. The inevitable trauma on removal was foreseeably greater in the particular circumstances of the case.

4.24 The management also felt that the children should not arrive at their placements in the dark. In order to ensure that they could make the journey to the mainland of Scotland and be taken on to their placements in daylight it was thought that the removal in the early morning was required. There was no place where they could be conveniently accommodated overnight. The potentially traumatic effect of the journey was recognised and time was allowed for the children to relax before they boarded the aeroplane. The removal necessitated the use of an aeroplane to reach the mainland of Scotland in due time but the airport closed at 5.00 pm during the winter months. If necessary the normal period for which the airport at Kirkwall was open could have been extended to accommodate a later flight, but the making of arrangements for that to happen might have alerted the public to knowledge of the departure.

4.25 Consideration was given to the timing of the school buses one of which took some of the children from South Ronaldsay to Kirkwall while another took the younger children to the primary school at St Margaret's Hope on South Ronaldsay. It was also believed that Mr M left home to travel to work in time for an 8 o'clock flight in the morning. It was decided that the removal should be effected before the time of his departure and before the school bus arrived. It was considered neither practicable nor appropriate to take the children from the bus either on its route or on reaching its destination.

4.26 The precise hour for arrival at the houses of the children was eventually fixed in discussion with the police on 26th February as 7.00am. It was hoped by that hour that the children would be up or getting up. It was believed that the school bus came at 7.30am so that the children would be up by 7.00am. The timing was officially announced at the final joint briefing meeting with the police on the evening of 26th February.

(F) THE CONTINUING
INTERVIEWS

4.27 MW was interviewed again on 14th February and again drew on a sheet of wallpaper. The interviewers took out the drawing that had been done at the previous sessions and asked her if she wanted to talk about what she had done. She wanted to do something else so they suggested that she should draw Orkney and her own home. She then proceeded to draw a map putting in what she said was Sandy's house and the church and the manse. She then drew a bright light and people and said that that was the field. She then drew Sandy's car with the trailer going to pick up people. She then drew a figure with a mask and a hook and said it was Morris. She said that Morris was married to Jan and that he was their minister. The interviewers asked whom he hooked and she said WB and OW. She then drew a figure with a hand and huge fingers and said that those were WB's fingers and that she was horrible and that they did not like her. Mrs MacLean asked her if she ever was hooked and she said yes and that she didn't like it, it made her feel itchy but she didn't want to talk about the dirty stuff. She then talked about all the people who were in the field and she again gave a list of names which Constable Williamson wrote down. She said that Morris watched over BW and Lakey and that he kept saying 'come on, do it, do it, do it'. She drew two figures with another figure looking over them underneath the list. She said that when they did it others stood in a circle and clapped their hands slowly, that they played music by Kylie Minogue while this was going on and it was 'Let your body move

to the music'. She said that JW took his Hi-fi and that he played the music. They asked her how they could see and she said that all the big people had gas lights. She then gave a list of the people that were there again. MW had written something at the edge of the wallpaper and scored it out in red but Constable Williamson could not remember what it was.

4.28 QW was also seen on 14th February. The interviewers took out the previous drawings she had done and asked her if she remembered talking about going to the hole in the ground. She said that Jan picked up her family in her car and took them to the place two at a time. She then made further drawings developing the account of the incident which she had given before. She drew a car with its lights on and a figure whom she called the prime minister wearing a black cloak. Mrs MacLean asked whom he hooked and she said 'MW'. She then drew MW and AW each with a sad face. She identified another figure as 'mum' dressed up as a cowboy. She was asked who else Morris hooked and she wrote a list of names including LW but then began to giggle and said 'oh no, he's a boy, he does it with L'. She did more drawing and then drew what seemed to be a strange alphabetical code. Over this she drew a rainbow with letters of her code written in. She then drew a picture and said 'there is MW in a wheelchair. Somebody is lying hurt on the ground and I have to draw someone walking out of the rainbow. He is sad and crying'. She drew as she spoke. She continued to write letters under the codes within the rainbow but appeared to be getting it wrong and was very distressed.

4.29 QW was interviewed again on 20th February. She drew on top of the drawings she had made earlier and she started to talk about WB's mum being there. She called her the white ghost and said she was creepy. She talked again about what she had spoken of before. She referred to earlier drawings and added further drawings. She also talked about MW and Morris and said that Morris put his dickie in MW's fanny, that MW was crying, and that afterwards she said 'pew that's over and done with'. She was asked if Morris said anything but she said she didn't know. She said that MW was wearing a turtle suit and that her mum kept suits in the loft. She then went back to talking about a party and people having died there and puppies being drowned and talked about a horse. She then went back and talked about where the cars stopped and this was a big field but she did not know where it was. She said that they didn't go there every time but her mum would tell her about it and to wear her turtle suit then. She was asked when was the last time she had been there and she said it was the day before they left Orkney. QW also drew a figure which she said was Mrs B. She also scored out the figure she had identified as HW standing in the trailer. Mrs MacLean telephoned Mrs Susan Millar on 20th February reporting on the interviews and mentioning the reference to the white ghost.

4.30 On 20th February MW was interviewed again and was encouraged to reopen the matter of the group in the field. In the course of the interview she observed to the interviewers 'Did you know this was all a lie?'. She had looked up and smiled quietly at Mrs MacLean and Mrs MacLean felt that she knew her well enough to believe that the girl was testing her out rather than meaning what she was saying. Mrs MacLean smiled as reassuringly as she could and the girl went on describing the substance of the allegations. Constable Williamson had not had sufficient training to be able to say with confidence whether the child was lying or telling the truth, but the child had not seemed to her to be serious when she said it was a lie.

4.31 When BW was interviewed again on 19th February the interviewer started to speak about Morris, but BW said that he didn't want to talk about this and started throwing objects around the room. On 23rd February BW was again interviewed. He was again referred to the gathering of the children. Mrs MacLean asked BW whether he remembered telling them about a boy named P who went. When B failed to respond she mentioned 'P somebody you told us went'. BW's reply to that was 'Oh no, no. No you must be thinking about L(W)'. Mrs MacLean then asked 'Was it PH you said went?' and BW having repeated the name said 'Oh yeah'. Mrs MacLean then sought further information about P, saying 'Well you told us last time that he went to the field'. A little later BW agreed that PH

did go and when asked about his parents and siblings said that PH and his father and his little sister went but Mrs H did not go. Mrs MacLean had failed to recall that it was LW and not BW who had mentioned P on 13th February. She suggested that BW might have mentioned P and it had not been recorded but it is more probable that she was confused. She accepted in her evidence that her wording in the critical question ('Was it PH you said went?') which she asked BW was not good. In the course of this interview BW mentioned the names of two further children who were not members of any of the four families, and whom he had mentioned before on 13th February. Mrs Liz MacLean also recalled that BW had made certain descriptive comments about PH's father including the statement that he was over 6 feet tall. This was not evident from the tape recording of the interview but she thought he might have made this observation in a more informal setting when the recording was not taking place. In the evening, Mr McTaggart who had heard from Mrs MacLean that BW had referred to PH's father telephoned Orkney and spoke with Miss Drever the duty social worker. He did not recall telling her but thought it possible that he informed Mr Lee of BW's reference to the H family. Constable Williamson later reported the interview verbally to D.I. Heddle.

4.32 On 23rd February Mrs MacLean and Constable Linda Williamson also interviewed AW, whom they had not seen for some weeks. She told them that her key worker had told her that her younger sisters were telling Mrs MacLean and Constable Williamson about things that had happened at home. She went on to say that nobody hurt anybody else. Constable Williamson was displeased that the key worker had known and that AW had been told, if that had been the case, but while Constable Williamson reported the matter to her senior officers no enquiry was made of the key worker about what conversations there had been, if any, between the children and their carers and in particular what conversations there had been, if any, between 6th and 12th February involving any of the carers and the children who had made the allegations on those dates.

4.33 During interviews with the W children, Mrs Liz MacLean recognised that Mr Sam McTaggart always wished to know what information she had obtained during the interviews. She normally had daily contact with him, either in person, or by telephone, and gave him a general idea of what had happened during interviews. She concentrated more on what a child had communicated, rather than particular evidential matters. Mrs MacLean understood that Mr McTaggart faxed the written notes of her interviews to Orkney. She conveyed to him that she felt that what the children were saying to her should be taken very seriously. She understood that any drawings done during the interviews became police property and were taken charge of by Constable Linda Williamson. Constable Williamson continued in regular telephone contact with D.I. Heddle, and reported also to D.C.I. Gough, and to Sergeant Hanson. Informal meetings took place at Dalneigh between D.C.I. Gough, D.I. Heddle, Sergeant Hanson and the interviewers. As had been arranged on 8th February Miss Janette Chisholm met D.C.I. Gough at Inverness at 4.30pm on Friday 15th February and sought to explain her presence in the region and her role with the W family.

II. Further Preparations In Orkney

(A) FURTHER MEETINGS **4.34** Mrs Susan Millar left Orkney on 16th February and preparations in the Department continued in her absence. Mr Lee has no recollection of any meeting with Detective Inspector Heddle on 19th February nor did Mrs Millar hear of such a meeting. Mrs Millar did however have a note of a telephone call from Mr Lee on that date from which she learned of the names and ages of the nine children.

4.35 On 19th February D.S. Sutherland and D.I. Heddle visited Mr Lee. The police learned that 27th February was the proposed date for the removal. D.I. Heddle said that he would detain certain adults and explained that if inquiry during detention produced grounds for arrest, arrest would follow. D.I. Heddle told Mr Lee that he would seek search warrants and would assist in the execution of the Place of Safety Orders. He would also provide women police constables to travel

with the children and engage in disclosure work. He expressed doubt of the position of the H children pointing out the scanty evidence relating to them and he proposed to instruct his officers that the H parents would not be detained. After seeing Mr Lee the police visited the Procurator Fiscal and gave her a verbal account of the information which they had.

4.36 Mr Lee had already made contact with the Social Work Services Group to inform them of the development which had occurred arising out of the W case in which they had earlier taken an interest. Mr Colvin of that Group had required to visit Shetland and arranged to stop in Orkney on his return to meet Mr Lee. The meeting took place on 20th February. Mr Lee showed Mr Colvin the evidence which he had including the summary type scripts of the W children's allegations. Mr Colvin agreed that the information from the children must be accurate. He rang Mr Jim Sinclair of the Social Work Services Group and told him of the situation, commenting that the situation seemed to him very nasty. Mr Lee discussed the plans for the removal of the children to the mainland with Mr Colvin. As Mr Colvin understood it Mr Lee was not seeking his advice (and it would have been inappropriate for him to have given advice) but informing him of a complex case which was likely to give rise to considerable public interest so that the Minister could be fully briefed if necessary. Mr Colvin asked Mr Lee if the Reporter had been told and Mr Lee said he would be told. Mr Lee indicated that he had not seen all the evidence yet and he expected other evidence to come in the process of time. Mr Colvin advised the Minister of State of the situation on 21st February. Mr Colvin said nothing to Mr Lee about the existence of guidelines for the case but early in March Mr Lee spoke to Mr Sinclair about the applicability of Effective Intervention and understood from him that Effective Intervention did not deal with the investigation of organised abuse.

4.37 As had been arranged on 15th February Mr Sam McTaggart returned to Orkney on 20th February to show some training video films of interview work to the Orkney social workers. He had been able to find two films which showed two different kinds of work in question and answer sessions. He showed them at a meeting of the field social workers on 21st February. The films were thought to be interesting but not of outstanding value and even unimpressive.

4.38 On 20th February Mr McTaggart spoke to Mrs Susan Millar on the telephone on the matter of the provision of staff for 27th February. Mrs Susan Millar was somewhat sensitive as Mr McTaggart recalled. She was wanting to hear what the agenda was to be at a meeting to be held the next day between Mr Lee and the staff relating to staffing matters in the Department. They also discussed the provision by the RSSPCC of supporting staff and Mr McTaggart told Mrs Millar that no definite decision had yet been taken on that.

4.39 During the following few days there were further discussions between Mr Lee and the police and the RSSPCC as to how the removal was to be managed. Practical matters were discussed such as where the children might be taken after their removal and before the aeroplane took off. Mrs Finn felt that they were working in a framework of decisions already made. The mood of the social workers was one of apprehension. They were concerned how they would support the children during the day and how the practical arrangements were to be made. They were starting with no knowledge of the children and were proceeding on the basis of the disclosures by the W children. There were no case files on any of the nine children as they were not as yet seen as clients and had no social workers allocated to them.

(B) THE SAFE HOUSES **4.40** It was decided that the children of each family should be taken in the first instance to a separate place of reception pending their removal from the Island by aeroplane. This had been touched on at the meeting between Mr Lee and Mrs Millar and the police on 14th February. Detail of this was raised at the meeting of the social workers on 20th February and it was recognised that each place should have sufficient accommodation for each child of each family to be separated. Premises were secured at Camoran, St Colm's Bungalow and two flats at the hostel at Kirkwall Grammar School. The purpose of this was the immediate

reception of the children to avoid disorientation and enable them to relax. The locations were each to be provided with food, toys and clothing.

4.41 Miss Anne Donnan was the officer in charge of Camoran. The first she heard of the matter was in a telephone call from Mrs Michelle Miller some time before 26th February stating that Camoran Home would be needed as a 'safe house' for nine children for a couple of hours. Miss Donnan was informed that the provision of drinks and food for the children would be required before they left. She was asked to attend a meeting at the Department on 26th February. She passed on these instructions to Mr Thorpe explaining that the Home would be required for the temporary accommodation of nine children. Mr Thorpe was told that the children were the subject of allegations made by children of the W family and the allegations were of sexual abuse. He understood that Place of Safety Orders were being sought.

(C) INFORMATION FROM THE SCHOOLS

4.42 It was also decided on about 20th February that some basic information on the nine children should be obtained from the schools which they attended. This was to enable the workers to prepare themselves for the removal of the children and for the guidance of the foster carers and possibly for the co-ordinators. The matter was raised by Mrs Mary Finn and agreed to by the group. The field workers understood that enquiries should not go below the level of head teacher. Their recollection was that this instruction had been relayed by Mr Sam McTaggart from Mrs Susan Millar but neither Mrs Millar nor Mr McTaggart had any recollection of giving or receiving such instructions. However that may be it was agreed that an approach should be made to the Acting Head of Kirkwall Grammar School and the Head of Guidance there and also to the Headmistress of St Margaret's Hope Primary School, Miss McLeman.

4.43 On 22nd February Mrs Julie Lee and Mrs Mary Finn went to Kirkwall Grammar School to get information on SM and WB from Mr George Blance and Miss Maggie MacGregor who were respectively the Acting Head of the School and the Head of Guidance. They obtained what was the barest skeleton of information consisting of sparse and sketchy details. Owing to the circumstances of the case it was not considered possible to obtain information from the class teachers and the social workers were not able to ask the questions they would have liked to have asked. It was reported that SM was confident, doing well academically, a dominant personality, able and articulate. WB was said to be doing well except at science but not to be as well integrated socially. The social workers constructed what were described as pen pictures on a standard form. They were however not able to know what the children looked like and they did not find anything of particular significance from the information which they could obtain.

4.44 On about 21st or 22nd February Miss McLeman, the Headmistress of St Margaret's Hope Primary School, attended at the Social Work Department in response to a request made a day or two before. When she attended at the Social Work Department, she spoke to Mrs Mary Finn, Mrs Michelle Miller and Miss Lynn Drever. Miss McLeman provided some detailed information in response to specific questions by the social work staff about the seven of the nine children who attended the primary school. The information was written up by Mrs Finn and Mrs Michelle Miller on the standard forms setting out some information about the child's progress at school, friendships and family. These threw up some matters of educational concern in some cases and some matters of social concern in relation to nearly all the children especially in the case of TH although the bedwetting which was recorded appeared to have ceased at an earlier date. Miss McLeman mentioned the matter in case it was of assistance to a foster carer and was not aware of any recent view on that problem.

4.45 The information from the primary school was more full and gave a better idea of the personalities of the children than that obtained from Kirkwall Grammar School. The social workers would have preferred to take their inquiries beyond the head teacher to those with a more extensive contact with the children as would have been done in normal circumstances. But at least so far as the seven children in the primary school were concerned three were in Miss McLeman's class and while the other two teachers in whose classes the other children were might have

had other things to say Miss McLeman believed that the general picture would have been more or less the same as that which she presented. The information omitted some important details such as for example that the T family were Jewish, vegetarians and did not have a television.

4.46 The pen pictures of the seven younger children broadly presented an accurate record of what Miss McLeman said to the social workers. She was the class teacher for EB, JM and BT. In some details the pen pictures did not exactly record the answers which she gave. Thus the statement that Mrs T was 'attacking the school' was incorrect and it would have been a more accurate reflection of what she had said if the pen picture had stated that Mrs T was a prominent supporter rather than a prominent figure in the W household. She was disappointed that the Social Work Department did not give her any information in exchange but she understood that this was not possible partly because of the need to preserve confidentiality and partly because Mrs Susan Millar was the appropriate person to respond to questions and she was still away. In some instances matters were stated with a succinctness which did not allow for exact precision. There were some comments in the pen pictures of certain of the children which disclosed problems beyond the particular sphere of education such as tiredness or unhappiness. No specific conclusions were drawn by the social workers from the information and no attempt was made to assess it.

4.47 Miss McLeman understood that the purpose of the questions was to enable some information to be given both to the future foster carers of the children and to the social workers who were to be drafted to Orkney to assist in the removal and also for the subsequent schooling of the children. She had believed that the purpose of her attendance at the Social Work Department was so that she could be given information rather than give it. She had not been asked to bring any records with her but felt that she knew the children sufficiently well to answer the questions which were put to her. She sought to present both information which was complimentary and information which was critical of them so as to give a balanced account. In retrospect she would have preferred to write the reports herself so that the words were hers. In the material which Miss McLeman provided to the Social Work Department neither she nor the social workers were looking for evidence of abuse. Indeed she said that at no time did she or any of the teachers in the school suspect that the children had been abused nor were they looking for signs of abuse.

4.48 On 22nd February Dr Linda Hamilton visited the Primary School to carry out the annual school medical checks. She went through the health records of the children including the records of those of the nine children who attended there. The only child she examined was TH and she would have done that as matter of routine in any event whether or not the allegations had been made by the W children. She found nothing of significance to report and if she had come across anything of medical significance she would have referred that to Mr Lee.

III. Preparations on The Mainland

(A) **MRS SUSAN MILLAR** **4.49** Mrs Susan Millar was away from Orkney from 16th to 25th February. She travelled south on Saturday 16th February knowing that Mr Lee would telephone to tell her to which areas she should go to discuss the provision of extra staff. She took no files nor copies of the summaries of the interviews with her. She had a mobile telephone with her and Mrs Finn recalled that at least during the early days there was daily telephone contact. By this means Mr Lee told her of the finally fixed dates of 26th and 27th February for the final preparation and for the removal of the children and of the names and ages of the children.

4.50 On 19th February Mrs Susan Millar attended the family funeral which had initially necessitated her journey to the mainland. On 20th February Mr Lee rang Mrs Susan Millar to inform her that Mr Philip Greene would be her contact in Strathclyde. She also learned from Mr Lee the ages of the children which had by then been ascertained in Orkney. On that day she travelled to Stirling where she met Mr Jim Crawford the Deputy Director of Social Work for the Central Regional

Council. He made arrangements for her to meet Ms Fran Connor the following day. She also met Mr Ian Gilmour from Strathclyde Social Work Department, who had been earlier involved with the W family and already knew the background to the present matter. He had also had some contact with Mr Lee. He told Mrs Millar that he had obtained staff to help in Orkney but had difficulty in finding placements. She told him she was going to appoint Mrs Susan Brown as co-ordinator. Mr Gilmour arranged for Mrs Millar to visit Glasgow and meet his social workers on the next day. She said to Mr Gilmour that if his staff needed support or counselling then the Orkney Islands Council could be approached on the matter of the cost. He however replied that they had no problem as they already employed a Mr Brian Steele who was a psychologist for that purpose.

4.51 A memorandum had been circulated in Central Region seeking a social worker experienced in child sexual abuse investigations as a matter of urgency for Orkney. The terms of the memorandum and its circulation caused some concern to Mrs Susan Millar lest the secrecy of the proposed operation might be prejudiced. Ms Fran Connor responded to this memorandum and by arrangement met Mrs Susan Millar on 21st February at the Central Region Headquarters. Ms Connor had trained in England with an involvement in work with abused children. In 1988 she took employment with the Central Regional Council in Scotland and had been involved in joint investigations with the police in cases of suspected child abuse as well as treatment, counselling and support work with abused children.

4.52 Mrs Susan Millar gave Ms Connor an account of the allegations made by the three W children separately. She explained that a decision had been taken to seek a Place of Safety Order on the children of four families, that Ms Connor would serve one of the orders, take the children into care and place them in foster homes and make a follow up visit the following day. She explained that the police would be acting with them and that they would search the house and interview the parents. If the children started to talk about abuse Ms Connor understood that it would be part of her function to deal with that and she was given to understand that she would obtain further information in Orkney to enable her to do so. Mrs Millar said that the removal would be in the early morning. Ms Connor assumed from the fact that Place of Safety Orders were being taken that the matter was one of emergency.

4.53 Ms Connor saw the invitation as a challenge and decided to accept. She felt that she had sufficient information to satisfy herself that she could join the operation, anticipating that she would obtain further details in Orkney. She was to fly to Orkney on Monday 25th February and she understood there would be meetings on Monday 25th and Tuesday 26th February. The secrecy of the whole operation was stressed to her. She was told that she would be seconded to Orkney Islands Council and would follow their instructions. Ms Connor indicated some anxiety at not knowing anyone in the team of workers from the mainland. Mrs Millar passed this anxiety on to Mr Jim Crawford. Ms Connor subsequently had a brief meeting with Miss Lindsey Stevenson with whom she had worked before and Mr Leslie Hood. Ms Connor sought to contact the social workers whom she heard would be coming from Strathclyde. A meeting was arranged for her to meet them and Mr Sam McTaggart on 24th February but she arrived late and could not gain access to the premises where the meeting was being held.

(B) THE POLICE **4.54** On 14th February D.I. Gough had given some thought to the police staff who would be required for the operation. Eventually four female constables were nominated to accompany the children to the mainland of Scotland, to settle them in their placements and to assist in the interview work. These were Constables Linda Williamson, Susan MacLaren, Pamela Ross and Anne Millar. Between 19th and 25th February D.I. Gough had further discussion with D.I. Heddle, Sergeant Hanson and PC Williamson. Constable Williamson gave him a verbal account of the results of the further interviews and the drawings by the children. D.I. Gough arranged for the installation of audio equipment at Dalneigh which was effected on 20th February 1991.

4.55 After 14th February the police made some enquiries in South Ronaldsay as has been narrated in Chapter 3. D.I. Heddle visited the area on the 19th February

and familiarised himself with the location of the houses of the four families. On 25th February D.I. Heddle and Sergeant Hanson travelled to Orkney and D.I. Heddle with Sergeant Sutherland identified the locations of the houses confirming what he had seen on 19th February.

IV. Meeting With Strathclyde Workers

- (A) PERSONNEL
- 4.56** After meeting Ms Fran Connor on the morning of 21st February Mrs Susan Millar travelled to Glasgow where she attended a meeting of Strathclyde social workers chaired by Mr Ian Gilmour. Mr Gilmour had held several managerial posts in social work in Falkirk, then in Central Region and later in Strathclyde. He was currently a Deputy Director of Social Work with the responsibility for childcare. The meeting was attended by Mr Philip Greene and six other members of the Social Work Department of Strathclyde Regional Council all of whom later attended in Orkney and assisted in the execution of the Place of Safety Orders. There were Mr Rab Murphy, Mr Sandy Fraser, Ms Rachel Adams, Mrs Norma Buchanan, Mrs Maureen Hughes and Ms Rena McCarry. These members of staff had been chosen because of their knowledge and experience in the investigation of allegations of child sexual abuse and of disclosure work with the exception of Mr Rab Murphy who was chosen for his knowledge and experience of Orkney. The four field workers had been contacted on the day before that and invited to the meeting. Mr Gilmour had noted that in the fax sent to him by Mr Lee on 14th February Mr Lee had sought workers with such experience. He understood Mr Lee's reference to 'initial interviews' as involving speaking to the children and their parents and the interviewing of the children about the alleged abuse.
- 4.57** A few days before 21st February Mr Greene had met with Mr Gilmour to discuss Mr Lee's request for staff. While Mr Gilmour had agreed with Mr Lee that the staff should come under the responsibility of the Orkney Islands Council the scale of the involvement and whether managers should be provided had been left unclear. Mr Greene understood that Orkney required workers who were competent in the whole field of child sexual abuse including the investigation of such abuse. The work as Mr Greene understood it would involve investigation as well as the care of children. Mr Greene thought to choose one manager, in the person of Mr Sandy Fraser, but Mr Gilmour suggested that Mr Rab Murphy should be used because he had had some knowledge of Orkney. They were both of equal managerial status and Mr Fraser had a direct link with the headquarters of the Strathclyde Social Work Department.
- 4.58** Mr Philip Greene had worked and trained in Scotland as a social worker before taking employment with Strathclyde Regional Council as a basic grade Social Worker, as a Senior Social Worker, as Area Manager and since 1986 as Assistant Principal Officer (Child Care, Child Abuse). He had had considerable experience in matters of child abuse in the Easterhouse area of Glasgow and had specialised in that subject.
- 4.59** Mr Sandy Fraser had trained and worked as a social worker in Glasgow and worked as an Assistant District Officer, Child Care, in the Monklands and Cumbernauld District of Strathclyde before he moved to Regional Headquarters as a Senior Resource Worker. He had had considerable involvement in child abuse work. Mr Rab Murphy had worked in Strathclyde for most of the time after obtaining his CQSW qualification, latterly as an Assistant District Training Officer with Strathclyde Regional Council. He had worked temporarily in Orkney from August to December in 1989 and in November 1990 had been involved in matters relating to the W family for about a week in November. Ms Rachel Adam held an honours degree in History from Edinburgh University, a CQSW and a Diploma in Social Work from Glasgow University. She obtained a Certificate in Women's Studies in 1990 at Strathclyde University following a part-time course there. For the last six years she had worked as a Social Worker with Strathclyde Regional Council specialising in child care and with some involvement in sexual abuse. Mrs Norma Buchanan had obtained a CQSW in Social Work from Queens College Glasgow and a Diploma in Advanced Social Work (Child Protection) at

Dundee. Since qualifying she had worked in Strathclyde with child care cases and latterly more particularly with children who had been sexually abused and with their families. Mrs Maureen Hughes graduated from Edinburgh University in History and subsequently obtained a CQSW and Diploma in Social Work. She had been working as a basic grade social worker in Strathclyde Region and latterly as a senior social worker specialising in child care and in particular in child abuse work. Ms Rena McCarry had qualified with a BA degree and then took her CQSW before working as a generic social worker in Strathclyde from 1982.

(B) THE MEETING

4.60 Before Mrs Susan Millar arrived Mr Philip Greene held a meeting in his own room with the social workers who had been invited and pointed out to them the potential there was for conflict with Orkney and the absence of procedural guidance there. They then met more formally with Mr Ian Gilmour who explained that the staff would be handed over totally to the Orkney Islands Council and would be under their direction. There was no formal contract between the two authorities. Mrs Susan Millar then joined the meeting. Mr Gilmour left after a while. Mr Greene then took the chair and the meeting continued for a considerable period thereafter. No official minutes were taken of the meeting. Mr Gilmour decided that there should be no minutes because of the confidentiality of the case although there was no reason to doubt the integrity of the staff involved in the preparation of a formal record. He also considered that time was short. While immediate circulation might have been difficult a minute would have provided a valuable record of what was agreed at the meeting.

4.61 At the meeting in Glasgow on 21st February Mrs Susan Millar sought to explain the situation to those present. She said that the Orkney Social Work Department was working closely with the police and the RSSPCC. She presented the substance of the statements given by the three W children based on what she had heard from Mrs Liz MacLean and stressed the need for confidentiality. She also gave some information about the background of the case. She indicated that the police would be involved in the removal of the children and that full information would be given to the police on the evening before the children were taken into care.

4.62 Mrs Susan Millar was also understood to say that the police would be arresting, as distinct from detaining, certain adults alleged to have been involved although the precise number was uncertain. Thus for example Ms Rena McCarry understood that the police had corroborated evidence of considerable strength sufficient to convict and imprison the parents and she took the absence of any mention of work with the parents and the absence of any access to the children to fit in with the parents being in prison. Mr Gilmour had no doubt about the mention of arrests. Had it been said that the adults were to be detained and released he would have asked more questions.

4.63 Mrs Millar gave the group to understand that further information would be available when the workers arrived in Kirkwall. However, she intended that that information would comprise details about the four families and not about the allegations made by the W children. The distinction was clear in her mind but although she stressed the confidentiality required by the police on the allegations the distinction was not clearly conveyed to her audience. What was not made sufficiently clear to the mainland workers was not only that there was a limit on the extent of information which was to be disclosed but also that there was a specific reason for that limitation which had not been given.

4.64 Mrs Susan Millar gave to the group an outline of the proposed programme. The mainland social workers would travel to Orkney arriving on Monday 25th February and there would be meetings with the Orkney social workers on that day. The workers understood that on Tuesday 26th February there would be further briefing and in particular a full briefing meeting with the police. On Wednesday 27th February the removal of the children would be carried out. She proposed that a debriefing meeting would be held on Thursday 28th February in the afternoon in Orkney. It was however suggested by Mr Murphy that this should be deferred so as to enable the social workers who had taken the children to their placements to visit them on the day following the removal so as to conclude

their contact with them. If that was to be done on the Thursday it would be impossible to get back to Orkney in time to hold a debriefing meeting that day. It was eventually agreed that the debriefing should be held in Orkney on Friday 1st March 1991.

4.65 A number of particular matters were raised in the meeting, such as the putting of the children into separate placements, their dispersal after they reached the mainland of Scotland, that the children were not to be interviewed before they left the island, the timing of the removal, the arrangements for medical examination, the absence of any access to the children by parents or siblings at least initially, and that the children should not have personal belongings with them.

4.66 A considerable number of questions from all of the group but particularly Mr Gilmour, Mr Greene and Mr Murphy were put to Mrs Millar seeking further information about the case. In particular the social workers were seeking information about the allegations made by the W children and the background to the case. The meeting seemed to Mr Gilmour to have been harmonious and constructive but it became slightly heated towards the end after Mr Gilmour was no longer there. Mr Gilmour however was not informed that any areas of concern had arisen. Mr Greene was, as Mr Murphy described it, vociferous in requiring that the staff should know as much as possible and he pressed Mrs Millar for more information. Mrs Millar however told the group that the disclosure of a large amount of information was unnecessary and would complicate the operation. She stressed the matter of confidentiality.

4.67 Mr Murphy considered that it would be of assistance to the group to have specific information about the children and the families and the allegations so that they could respond appropriately if the children made a comment during the course of the removal. He was conscious that an inappropriate response might give a child a greater consciousness of guilt and make it less likely that a disclosure would be made. The matter of the information to be given was left unresolved. But the Strathclyde workers understood that they would be fully briefed in Orkney when they arrived there and would receive more information both about the four families and about the disclosures.

4.68 Mrs Susan Millar made it clear to the group that all the interviewing of the nine children was to be done by the RSSPCC and the police. The Strathclyde workers were not to work with the children but only to support the children to their placements, although they were to make a careful note of any observations made by the children during that time. The workers were to be receptive but not to pursue an investigation of statements made by the children. The group was however left with differences of understanding. As Mr Sandy Fraser understood it they were to execute the Place of Safety Orders, remove the children from their homes, accompany them to their placements and hand them over to the people who were to look after them. Mrs Maureen Hughes understood that if a child did start to talk the worker would be able to continue with the child until the RSSPCC took over. Mr Philip Greene understood that the children would be gathered together before they left the island and would be interviewed at that stage about the alleged abuse as well as about matters relevant to their care.

4.69 The discussion on this important area was to some extent obscured by confusion in the use of the term 'disclosure'. Mrs Susan Millar sought to make a separation between the work of removal into care and disclosure work although in the course of the discussion Ms Rena McCarry understood her to accept that such a separation could not be made. What in effect Mrs Millar was seeking to secure was the seclusion of the interview work to the RSSPCC. Mr Sandy Fraser thought that it was difficult safely to discourage disclosure. Ms Rena McCarry for one however, did not regard disclosure work as a distinct operation and did not use the term as applicable only to the process of formal interview. The work of disclosure began as she saw it when a relationship with the child was created. That relationship began when the child was removed and she saw the process of disclosure as an indivisible part of reception into care. She thought that Mrs Millar accepted that and had agreed that if the children did talk the workers would engage

with them. There was a difference of approach in the understanding of the process of disclosure and a difference in the understanding of the terminology used.

4.70 The possibility that a child might make a spontaneous statement shortly after his or her removal was raised by Mr Gilmour and discussed. In Mrs Susan Millar's view the possibility was remote. She recognised the importance of the first person to whom a child might start to tell of an experience of abuse but she preferred to allow time to be given to the child and to enable a relationship of trust to be built up with the interviewer. While the persons taking the children into care should be able to respond appropriately she did not wish those persons to encourage the children to speak of any abusive experiences. In the list of concerns which they later compiled the Strathclyde workers noted it as a missed chance that no interviewing was done immediately on removal. Their view was that the children could disclose at that time and it was a valuable opportunity for interview. Ms Rena McCarry thought that a spontaneous disclosure would often happen and that enormous pressure would build up on a child to discourage disclosure if an opportunity was not given for disclosure soon after the removal. The Strathclyde workers remained somewhat uncertain as to what was to be required of them if a child wanted to talk but Mr Sandy Fraser had no doubt of the limited duration of their involvement. He understood that they were to record anything said but not to develop it. What worried him was that while the boundaries were clear he was uncertain how to stay within them once a child started disclosing. Mrs Maureen Hughes felt that the Strathclyde workers were sufficiently experienced to deal comfortably with any spontaneous disclosures which might be made. Mrs Susan Millar thought that the likelihood of disclosure at the stage of removal was a matter of difference of opinion. She intended to convey to the meeting that the workers were simply to note what was said, record it and pass it on. But the uncertainty in which the whole matter was left was the source of continuing anxiety and dissatisfaction on the part of the mainland workers.

4.71 There was some discussion about supporting the children in their placements until they felt secure. Mr Gilmour raised the specific matter of the social workers returning to the placements on the day following the removal to secure a continuity of support and understood that Mrs Millar accepted that the Strathclyde practice of follow-up visits would be adopted. He had said it was normal good practice and a prerequisite of the secondment. The issue was one which only occupied a small part of the discussion and Mrs Millar did not recall specific mention of a return on the day following the removal.

4.72 The extent of the duties required of the mainland workers as explained by Mrs Susan Millar was evidently more restricted than they had earlier understood. As was later observed they were in effect only to be arms and legs and the question might have been raised whether it was necessary to be supplying individuals of the particularly high level of experience and skill as had been selected. Mrs Maureen Hughes for one doubted if she would have participated if she had known the limitations on the role required of her. But no thought was given to any alteration in the composition of the team. Mr Lee had asked for five social workers. In the event four social workers and two managers were sent. The diminution in the role expected of them together with a continuing uncertainty with regard to the role of the RSSPCC workers in the event of a child starting to disclose during the removal remained as sources of dissatisfaction to the mainland workers.

4.73 There was some discussion of the timing of the removal of the children which Mrs Millar explained would be in the early morning. Mr Gilmour made a reference to 'dawn raids' to alert Mrs Millar to the risk of the likely Press reaction. Some unhappiness was felt by those attending the meeting at the choice of timing on the ground of the element of trauma to the children if they were awakened out of sleep. But the workers were reassured by the understanding of the distance the children had to travel to school, the timing of the school buses and that the children would be up at 7 o'clock to leave early to get to school. They appreciated the distress which had been experienced on the removal of the W children from school the previous November. They also understood that the police preferred the early removal and they accepted the need for a simultaneous operation.

4.74 Another matter raised at the meeting in Glasgow on 21st February was the matter of medical examinations of the children. The possibility that they should be carried out in Kirkwall was raised and Mrs Millar explained that it was difficult to arrange that for lack of expertise there. She also explained that there was a practical difficulty in arranging for persons with expertise to be imported. There was in Orkney one medical officer able to examine children suspected of sexual abuse, namely Dr Linda Hamilton, a Senior Clinical Medical Officer with the Orkney Health Board, but it was desired that the examination should be carried out if possible by two doctors, one being a police surgeon and the other preferably a paediatrician. Mr Greene thought that the children should be examined in Orkney as a group but it was arranged that they should be examined on the mainland of Scotland. Mr Gilmour and Mr Murphy felt that it was desirable to have the medicals carried out before the children reached their placements both in their own interests and for the protection of the foster carers. Mrs Susan Millar regarded the matter as one tied in with the placements rather than staffing and she had no firm understanding of the matter. She understood that Strathclyde Region had their own procedures and they would be satisfactory.

4.75 The question also arose as to the nature of the medical examinations. Mrs Susan Millar agreed that the medicals should be wider than examinations for evidence of abuse. Mr Gilmour advised that there should be a single medical examination to cover both the forensic purposes and the requirements for a reception into care. He understood that at the Fred Stone Unit at Yorkhill Hospital a single report would be arranged to serve both purposes but he understood that this would not be done automatically by the doctors and ought to be specifically requested. Mrs Millar gave the Strathclyde staff the telephone number of Detective Inspector Gough to enable the matter of the responsibility for the medical examinations of the children going to Strathclyde Region to be resolved and she left that matter to the Strathclyde authorities to handle. It was agreed that the nature and extent of the medical examinations was to be a matter for Strathclyde Region to work out with the police and Mr Philip Greene thereafter took up the matter.

4.76 A further matter mentioned at the meeting on 21st February was that of the children taking personal possessions with them. This was a matter which Mrs Susan Millar had raised with Mr Sam McTaggart during his visit to Orkney on 15th February. As he was aware concern had been raised in regard to correspondence and presents which had been sent to certain of the W children over the previous months. Mrs Millar's concern was whether such things might have an abusive connotation and so act as to inhibit the children from speaking of any abusive experiences. She recalled that in some instances members of the W family did not want correspondence which was sent to them. Mr McTaggart's advice on 15th February was that it was better to err on the side of caution. One problem was that it was impossible to say what might or might not inhibit the children. Mrs Millar believed that the matter was one for professional debate and she had to take a decision on balancing the various considerations. It was normal practice to allow children to take personal possessions with them but on the other hand she believed that there was always the risk in a case of suspected sexual abuse that items might operate as a deterrent to disclosure until the child had told of her or his experiences.

4.77 At the meeting on 21st February Mrs Millar told the Strathclyde workers of the risk which she felt could exist in relation to the children taking objects which might inhibit them from talking. She explained the concern which had been felt about the correspondence with the W children and the abusive significance which some items of it might have had. The impression received by the social workers was that no personal possessions were to be allowed to be taken with the children. As Mr Murphy recorded it the matter was one of an absolute prohibition not allowing any discretion to the social workers when they removed the children from their homes. He considered that to be an undesirable course leading to a sense of isolation on the part of the child and a loss of identity.

4.78 The message which was evidently conveyed to the social workers was not the one which Mrs Millar intended. She did not think that she had presented a prohibition on all items. She had only wanted to indicate that care should be taken about what the children took. What she had had in mind particularly was that

the children should not take objects which the adults might give them as opposed to objects which they chose themselves to take. But that distinction was not understood by those present. She would have accepted a degree of professional discretion but that an element of discretion was to be permitted was again not understood by the social workers at the meeting. She regarded the matter as not a big point and it was in her mind that professionals would use their discretion. She was evidently not questioned about what she had said on this matter and there was no apparent dissent or discussion about it. In retrospect she accepted that it should have been more fully discussed.

4.79 Some mention was evidently made at the meeting of access to the nine children after their removal from home. Mrs Millar was understood to indicate that parental access would be considered at subsequent Children's Hearings. There was no extensive discussion of access between siblings. It was understood that the Social Work Department were being guided in relation to these matters by their experience with the W family.

4.80 At a late stage in the meeting on 21st February the question arose whether Mr Murphy or Mr Sandy Fraser was going to Orkney. On the following day Mr Greene told Mr Murphy that both he and Mr Sandy Fraser would go to Orkney. Mr Gilmour intended that Mr Fraser should be a channel of communication with Strathclyde and did not envisage that he would take part in the actual removal of the children. Mr Murphy did not see himself as leader of the contingent and no leader was formally appointed. His position as he saw it evolved during their period in Orkney. Mr Greene regarded it as implicit in Mr Fraser's rank that he had a degree of control but no-one told Mr Fraser that he was to have a management function.

4.81 The Strathclyde workers understood that after the meeting Mrs Millar was leaving to go to a wedding. Some of them perceived that her departure curtailed the meeting and that she had left early, but Mrs Millar did not consider that it had been rushed. Mr Gilmour had left some time before the meeting had ended and while Mr Greene had then acted as chairman it had not seemed to Mrs Millar that anyone had taken over the responsibility of chairing the meeting after Mr Gilmour's departure. After Mrs Millar left the others remained for a time to discuss an operation about which they were already having feelings of growing unease.

4.82 Some of the workers researched for information which they thought might be helpful. Mr Sandy Fraser thought it might be useful to look at some work which had been done on the problem of island communities, at Sheriff Gow's observations in a case in which the Department had recently been involved in Ayrshire and at a package of press cuttings which Mr Greene had put together on ritual and satanic abuse, although nothing had been said to suggest that that kind of abuse was alleged in the present case. He also took copies of the Strathclyde procedure to Orkney in case they might be of future use in other cases.

4.83 Mr Greene left the meeting with an increased sense of unease. He told the Strathclyde workers to make a careful log of everything that happened and raise anything about which they were unhappy. He did this because he foresaw difficulties would arise. That instruction however did not reach Mrs Maureen Hughes. Mr Greene understood that the Strathclyde workers were hesitating whether they should take part because of the lack of information which they had and he spoke twice on the telephone with Mr Sandy Fraser that evening. He told him that they were free not to take part but in the event they all decided to participate. Mr Greene believed in retrospect that the anxieties of the Strathclyde workers might have been eased if there had been a full discussion before 27th February with all the staff and with everyone with any knowledge of the children, if there had been a clear contract between Orkney and Strathclyde resolving all the details, if there had been a minute of the meeting of 21st February for the confirmation of what was agreed, if some investigation had been made into the adoption of common practices in both areas and if it had been made clear what authority Mr Sandy Fraser was intended to have.

4.84 Mr Philip Greene and Ms Rena McCarry understood that the intention of the Orkney Social Work Department was for the Place of Safety Orders to be taken out by the police. Mr Greene recalled telephoning to a male police officer

in Inverness shortly after 21st February and obtaining an understanding from him that the police were to obtain the Place of Safety Orders. He accordingly rang Mr Lee and believed that thereafter the Social Work Department discussed the matter further with the police and considered that they should obtain the Orders themselves. This appears to be a confused recollection. Whatever impression had been given the Orkney Social Work Department had always had in mind that they would obtain the Orders. Mrs Millar thought that something she had said about the police being present might have led to the confusion that they were obtaining the Orders.

4.85 After the meeting with the Strathclyde social workers Mrs Susan Millar considered that the task which had been allotted to her by Mr Lee to carry out on the mainland of Scotland in connection with the obtaining of staff to assist in the removal of the children had been completed and she was then free to remain on the mainland and attend a wedding on the evening of Friday 22nd February. She had reported back to Orkney by phone and thought that Mr Lee was aware of the position regarding the mainland staff. She was available on her mobile phone if required and was ready to go anywhere Mr Lee might instruct if he wished to do so. The management of the Strathclyde workers had her mobile telephone number. She had no qualms at attending the wedding and felt free to do so.

4.86 Mrs Susan Millar was away from Orkney for the whole central week of the preparatory work. The particular task she had gone South to perform (the finding of staff support from the Central and Strathclyde Regions) had been completed on 21st February. But she did not immediately return to Orkney to help in the planning and preparation. Her attitude as presented in her evidence was one of relying on Mr Lee and on the field staff to continue with the preparatory work and to take the necessary initiatives. She assumed that Mr Lee and the other social work staff would during her absence be finding out about the families and she anticipated that they would apply their minds to the planning for such support as the parents might require on the removal of the children. She had what she described as a reasonable expectation that they would think of such matters as the obtaining of information about the health and medical requirements of the children which could accompany them to their placements and which might be done for example by consulting Dr Linda Hamilton. The Orkney field staff were thus deprived of the presence of one who had in their view greater knowledge of the facts of the case than they believed they had and a greater confidence in the proposed action than some at least of them possessed. Mr Lee understood that Mrs Millar was the overall co-ordinator in charge of the removal of the children and had the capacity to undertake the task, but she regarded herself as having only a partial responsibility while the ultimate responsibility remained with Mr Lee. Her understanding of her responsibilities appears to have been related to the number of workers required and the engagement of the extra workers from the Central and Strathclyde Regions.

4.87 When Mrs Susan Millar went South no formal understanding had been made with Mr Lee as to the period of her future work in the Department. The date on which her resignation was to have taken effect had already passed by 21st February but Mr Lee was expecting that she would return and would stay on in the Department for some time. Mr Lee did not ask her before she left whether or when she would return and she did not expressly tell him that she would return. She was herself intending to return as she felt that in the circumstances she had no choice. She could not recall why she had not decided to travel back on the Saturday 23rd February rather than the following Monday.

V THE FINAL PREPARATIONS

I. Preliminary Steps

(A) THE MAINLAND WORKERS

5.1 Over the period of 22nd and 23rd February there were a number of telephone conversations between members of the group of mainland workers who were to be seconded to the Orkney Islands Council. Concerns were expressed by them regarding a number of matters. These included the inadequacy of information on the disclosures of the W children and about the nine children, the time of uplift, the splitting of siblings, the prohibition on personal possessions, the prohibition on access, the matter of follow-up visits to the children and the role which the RSSPCC was going to play. A meeting was accordingly arranged after discussion between Mr Sandy Fraser and Mr Sam McTaggart the Divisional Manager with the RSSPCC. An attempt was made to contact Mrs Susan Millar but without success. Mr McTaggart spoke to Mr Lee and he agreed that Mr McTaggart should hold the meeting. The meeting was arranged for the afternoon of Sunday 24th February.

5.2 The meeting was attended by all the Strathclyde workers except for Mr Rab Murphy. Mr McTaggart proceeded to give the workers a considerable amount of information and background regarding the W children and their support group who had been hostile to the Social Work Department. The meeting also worked out a list of matters which Mr McTaggart undertook to discuss with Mrs Susan Millar. It was anticipated that further information on those matters would be obtained when they arrived at Kirkwall. The matters included the separation of the children, the allocation of placements, the medical examinations, the action to be taken if the children started disclosing, the place for the debriefing, the securing of uniform information for everyone about the children, the time of the removal and access by the parents. Mr McTaggart gave the meeting some information about Orkney. He spoke of the police apprehending the parents before charging them. Ms Rena McCarry and Mrs Maureen Hughes clearly understood that the police had sufficient information to charge the parents.

5.3 At the meeting the social workers expressed a wish to be involved in disclosure work with the children in the long-term after their removal. Mr McTaggart undertook to raise that matter with the Orkney Social Work Department but Mr Sandy Fraser observed that any extension of their work would require a renegotiation. The workers also wanted a formulation of what to say to the children to explain their removal. It was also recognised that the children might say something of significance during their removal and they wanted guidance on what their response should be. They were advised that they were to be receptive and note down anything that was said but they felt that there were difficulties about such a course. Mr McTaggart telephoned Mr Lee on the evening of 24th February and advised him that the meeting had taken place.

5.4 On Monday 25th February the mainland social workers flew to Orkney. They travelled on two separate flights with a view to preserving the secrecy of the proposed operation. Mr Murphy travelled with Mrs Buchanan and Mrs Hughes and arrived in the morning. On their arrival Mr Murphy telephoned to the Orkney Social Work Department to tell them that they had arrived, that they would have lunch and then move on to their hotel in Stromness. No instructions were given to them at that stage. When they reached their hotel there was a message requesting them to phone back to the Department. Mr Murphy then spoke to Mrs Michelle Miller on the telephone and she told him that the meeting which had previously been envisaged to introduce the social workers would be postponed. He was asked to come with the other workers from the mainland of Scotland to the

Social Work Department offices at 11 o'clock on the next morning. Mr Murphy duly passed on that message to the rest of the mainland workers including those who had arrived on the later aeroplane. Three of them were staying in one hotel and four in another, all in Stromness. The mainland workers were thus to their disappointment not in the Social Work Department at all during the day of their arrival, which caused particular annoyance to Mrs Hughes who had at some inconvenience because of her domestic arrangements made special efforts to arrive in Orkney on the Monday in the expectation that a meeting would be held that day.

5.5 On 25th February Constable Linda Williamson travelled to Orkney. She brought with her transcripts of the interviews with MW and QW of 20th February, a summary of the interview with AW of 23rd February and the tape recording of the interview with BW on 23rd February. Mr Sam McTaggart also flew to Orkney on the morning of 25th February. He went straight to the Social Work Department but was left to wait there until the late morning. There was no senior manager there to take responsibility for him and he regarded the day as disorganised. Mrs Liz MacLean also arrived in Orkney that day and spoke with the field workers at the Social Work Department. Miss Lindsey Stevenson also arrived on 25th February and Mr Leslie Hood travelled on the following day 26th February.

(B) FURTHER PREPARATIONS
IN ORKNEY

5.6 Further preparations were made by the Orkney social workers during 25th February. Mrs Mary Finn and Mrs Julie Lee went to Kirkwall Grammar School to look at the staff flats where some of the children would be received. On that day also, confirmation was obtained from the police that they would attend a meeting on the following day. Mrs Susan Millar caught the lunchtime boat from the mainland of Scotland and arrived at Stromness at about 2pm. She went to the Social Work Department office at about 3.30pm or 4pm. Mr McTaggart discussed with Mrs Susan Millar and Mr Lee the matters which had been raised by the Strathclyde workers at their meeting on 24th February.

5.7 While giving her evidence Miss Lynn Drever recalled that she had helped to draw a flow chart to assist the preparation. She remembered bringing in to the department a white board and looking for pens to use on it. Following upon that evidence a search was made and the board was located and produced to the Inquiry. It presented in diagrammatic form a possible succession of events over the 26th and 27th of February 1991. It reflected an understanding in the Social Work Department that the time for removal should be 7.15am to 7.30 am. It also indicated an intended stage of liaison between the Department and the Police after the removal of the children to consider the question whether the children should be transferred to placements after the parents had been interviewed. However D.I. Heddle was not aware of any such plan. So far as Mrs Susan Millar was concerned it was not her intention that the transportation of any of the children off the island was dependent upon such interviews. The flow chart was almost certainly prepared before Mrs Millar returned to the Department.

5.8 After Mrs Millar's return to the Department some discussion was held between herself and Mr Lee with Mr Sam McTaggart and Mrs Liz MacLean. In the course of this some arrangements were made about the allocation of the social workers to various teams which were to be responsible for the different families. Miss Lynn Drever recalled that she was allocated to the B family with Mr Murphy as her team leader. Mrs Julie Lee was assigned to the H children. At some stage on 25th February or the following day Mrs Susan Millar asked Mrs Michelle Miller about the information which had been obtained on the families and was shown the pen portraits. On 25th February the information obtained on the children was collated and the dates of birth were checked. Photocopies of the pen portraits were made for onward transmission to the Regions to which the children were to go.

(C) THE IDENTIFICATION OF
THE CHILDREN

5.9 In the course of an interview on 1st December 1990 BW had mentioned PH in the context of identifying an area of the village of St Margaret's Hope. No mention of the H family had been made by MW in the course of her allegations on 6th February. On 12th February QW had mentioned someone called P as being

present at the incident she described. On 13th February BW was interviewed at 10 o'clock followed by his brother LW at 11 o'clock. BW made no mention of P during the account of the alleged abuse which he gave on 13th February. As narrated in Chapter 2.82 at the interview with LW, which followed the interview with BW, LW was asked by Constable Linda Williamson if PH was there and he replied 'probably'. At some stage on 13th February information came to the Social Work Department that PH had been mentioned in interview. In a call to Mr Lee, Mrs MacLean mentioned PH as another name and as living on the outskirts of St Margaret's Hope. Mrs Susan Millar recalled that on 13th February there had been mention of PH but she did not understand that there had been any mention of any siblings of PH. On the other hand Mrs MacLean at least later thought that BW had mentioned PH and his sister on 13th February and she so reported in an account of the interview with BW of that date on 29th March sent by fax to Mr Lee.

5.10 As at 14th February 1991 Mrs Susan Millar understood that the persons involved in the allegations beyond members of the W family included both of the M parents and their two children, both the T parents and their two children, the three B children but only one parent, and PH. She believed that there had been sexual abuse taking place involving at least these children. There had been no mention of Mr B, nor at that stage of any siblings of PH. In the summary of the statement by QW, P had been mentioned without a surname but Mrs Susan Millar recalled that Mrs Liz MacLean had mentioned PH and she had no reason to doubt that. Mrs Millar believed that a fuller record would be available on audio-tape. The name PH having been mentioned to her on the telephone Mrs Millar accepted it at face value.

5.11 D.C.I. Gough did not recall any mention of the H family at the meeting at the Social Work Department on 14th February. The discussion was one of principle and he thought that only the B, M and T families were mentioned. C.I. Ratter similarly recalled that they were dealing with three families and did not remember any mention of a fourth family. The position of the H family was not discussed. However by the end of the meeting Mrs Susan Millar was clear that the Social Work Department would have the backing of the police for obtaining and enforcing the Place of Safety Orders for the four families subject to a caveat on the H family.

5.12 Mrs Millar's note of the meeting of 14th February reads 'Four families will be prioritised'. But in her diary for 14th February noting certain school references she listed only the B's, M's and T's. She recognised that the H family might be treated differently. There was the choice as Mrs Susan Millar saw it either of leaving the children at home, although one child might have been abused and one parent might be an abuser, or to remove them, invite the parents to a meeting and then, if it was felt that there was one safe parent to ask the Reporter to discharge or dispense with the warrant. In the generality of the discussions however no differentiation was made between the H family and any of the others or indeed between any of the families. Mr Lee was not sure whether the H children would be taken into care unless there was further information that that family was involved. While that uncertainty was however recognised on 14th February the preparations carried out by the Social Work Department proceeded on the basis that all nine children would be removed.

5.13 Mrs Liz MacLean had some discussion with Mr McTaggart on 15th and 18th February about the possible involvement of members of the H family and Mr McTaggart suggested that the matter might be raised with the W children. The interviewers agreed that the possibility of the involvement of members of the H family should be put to the older W children but no suitable opportunity arose until the interview with BW on 23rd February. The interview with BW on 23rd February has been noted in Chapter 4.31. Despite the form of the interviewers' questions they came to believe from BW's response that both PH and his sister and his father were involved in the alleged abusive activities.

5.14 Mr Lee, Mrs Finn, and Mrs Michelle Miller all recalled that the position of the H family was raised on the afternoon of 25th February in the Department and that Mrs Susan Millar stated that there had been further confirmation of the

involvement of the H children and that they should also be removed from Orkney. Mr Lee had a clear recollection that Mrs Susan Millar gave a verbal account of a further interview in which the H parents had been mentioned. While it would have been possible for Mr McTaggart to have told Mr Lee of BW's observations when he spoke with him on the telephone over the weekend, Mr Lee had no recollection of the matter having been mentioned. On the other hand Mrs Millar recalled hearing, albeit as she recalled it from Mr Lee on 26th February, of the names of two further children, not of the four families, and these names had been mentioned by BW on 23rd February. It was understood by Mr Lee, Mrs Finn, and Mrs Michelle Miller that a second W child had indicated some involvement of the H children. Mr Charlie Fraser, Miss Lynn Drever and Mrs Julie Lee understood that the reservation on that family's position was now resolved, the uncertainty about them had gone and the H family were to be viewed in the same way as the others. Miss Lynn Drever recalled in particular that Mrs Susan Millar used the word 'corroboration'. No details of the further evidence which had apparently been obtained was disclosed.

5.15 Mrs Susan Millar however denied that she had provided this assurance about the H family on her return on 25th February. She had been made aware of the disclosure about Mrs B which emerged on 20th February but she had not been involved in any further information coming to light thereafter and in particular was not aware of what had transpired at the interview with BW on 23rd February. Mr McTaggart had not spoken to her until 25th February. Mrs Liz MacLean had not told Mrs Susan Millar nor Mr Lee over the period of 23rd and 24th February about the interview with BW on the 23rd nor did Mrs MacLean recall any discussion about the H children while she was at the Social Work Department on 25th February.

5.16 Information about what BW had said on 23rd February was clearly available in the Social Work Department on 25th February at least from Mrs Liz MacLean herself. Indeed Mrs Julie Lee recalled an assurance given at a meeting attended by Mr McTaggart and Mrs MacLean which she dated at about 20th or 21st February that action had to be taken in respect of the H children. Something about the interview with BW on 23rd February may well have been passed by telephone to Mr Lee before the 25th of February even although no transcript or written report of the interview was sent to the Department before 27th February. The tape was sent to the Police in Orkney but no immediate transcript was made. It is not improbable that Mrs Susan Millar learnt the substance of what BW had said on her return on 25th February. It may well be that she gave a reassurance to the social workers of the sufficiency of the evidence so far as the H children were concerned although it is unlikely that she arrived bearing information which was not possessed by those who had reached the Department before her. Information on PH and his sister had been sought from Miss McLeman on 22nd February and it is clear that after PH had joined the list of those thought to be involved no-one in the Social Work Department thought to examine precisely what evidence there was affecting the H children and whether they should be removed.

5.17 The police agreed that there were grounds to take the H children into care under the joint procedure. D.I. Heddle considered that there was insufficient evidence to support Place of Safety Orders for them from the police point of view but considered it totally reasonable for the Social Work Department to take the children to places of safety. The Police however considered that there were insufficient grounds to justify detaining Mr H or Mrs H and D.C.I. Gough decided that they would not be detained. In her assessment of the evidence Sergeant Hanson made no mention of PH's sister. Constable Williamson had not questioned the credibility or reliability of BW's mention of her on 23rd February but had regarded it as not corroborated.

5.18 Only on 25th February did the field social workers learn that the police might not interview Mr and Mrs H and in the final stages it became evident that the police were only going to detain the other parents under Section 2 of the Criminal Justice (Scotland) Act 1980 rather than arrest them, and might even at their discretion not do that. Mrs Millar however continued to understand until 26th February that the Police had a discretion on whether they would detain the

H parents. She was aware that they were being treated differently but she was concerned with the social work perspective and not with understanding the police function.

(D) THE PLACE OF SAFETY ORDERS **5.19** In the course of 25th February 1991 application forms for Place of Safety Orders were completed in the Social Work Department. Mrs Finn and Mr Charlie Fraser worked on the preparation of them. Mrs Finn checked the names and addresses of the children and parents. The forms were made out in the name of Mrs Julie Lee and were signed by her. This was because she was one of the few social workers free to go to the Sheriff Court to obtain the Order. A standard cyclostyle form prepared by the Social Work Department was used for the applications.

5.20 Each form was filled up to give the name of Julie Lee of the Social Work Department as the Petitioner. The text continued to state that on Tuesday 26th February 1991 at 9.30 am at the stated address of the child the particular named child:

‘In terms of Section 37 of the Social Work (Scotland) Act 1968 Subsection 2 (as amended by the Children Act 1975 Section 83(b).

Require to be detained in a place of safety and in pursuance thereof. The Reporter shall forthwith be informed of the case’.

The petition gave no explanation why the child was said to require detention, set out no facts to justify the application and did not even identify which head or heads of the statutory provisions were relevant and the erroneous punctuation in the form which split the final passage into two parts appears to have passed uncorrected.

5.21 At 9.30 am on 26th February Mrs Susan Millar and Mrs Julie Lee attended at the Sheriff Court to present the applications for the nine Place of Safety Orders. Mrs Millar had confirmed with Mr Lee that the Place of Safety Orders should be obtained. Mrs Julie Lee had not presented an application before in Scotland. There had been some advance warning given to the Court and a request had been made by the Sheriff Clerk on behalf of the Sheriff for a provisional report before he made a decision. Mrs Millar accompanied Mrs Lee in case the Sheriff wished further information which was beyond what Mrs Lee could give. Mrs Lee felt that she did not have sufficient information to answer any question the Sheriff might wish to ask. Mrs Millar gave an oral report to the Sheriff.

5.22 The Sheriff had earlier had some involvement in the W case. Mrs Millar told him of the substance of the three statements from the W children as she had heard them from Mrs Liz MacLean and how the Social Work Department, the police and the RSSPCC were jointly involved in the matter of the four families. In her evidence to the Inquiry she said that the subparagraphs of Section 37(2) on which, in her mind, she had been proceeding were subheads (a), (b), (c) and (e), a view also held by Mr Lee, and that each and all of these subparagraphs were applicable to each and all of the nine children on the basis of the disclosures by the W children. She did not however explain to the Sheriff whether these were cumulative or alternative nor how they might apply to each individual child. It appears that in the twenty to twenty-five minutes which the hearing took she presented the matter as a single case and while she presented nine applications she did not draw attention to any particular facts or points of difference which might exist between any of them.

5.23 The Sheriff in terms of the text printed on the lower part of the application form ‘having considered the foregoing petition’ granted ‘Authority to Orkney Islands Council with assistance as necessary to take/to detain at a place of safety the above mentioned child’. Although the petitioner was Mrs Julie Lee the form was completed to grant the authority to the Council. The whole statutory heads were set out on the reverse side of the form but there was nothing to indicate on which of them the petitioner had sought the order nor on which of the heads the Sheriff had granted it.

5.24 Although the whole enterprise was dependent upon the obtaining of the Place of Safety Orders from the Sheriff no thought was given to the possibility of applying earlier than 26th February to allow for the possibility of the applications

being refused. Practice tended towards making any application as close to execution as possible. In the present case there was at least the remainder of the day of the 26th available if at 9.30 am the Sheriff had required further information.

5.25 It had been a deliberate decision to seek the Orders from the Sheriff and not from a Justice of the Peace on the basis that the Sheriff would be able to exercise the greater degree of knowledge and critical faculty which was appropriate to the serious allegations in the case. A Tuesday was one of the days when the Sheriff (who also sits in the Shetland Islands) sits in Kirkwall.

(E) THE ACTING REPORTER

5.26 The Acting Reporter, Mr Sloan, had made a routine visit from Strathclyde to Orkney on 18th February 1991 for a few days. He spoke with Mr Lee in Mrs Susan Millar's absence. Mr Sloan heard that some disclosures by children of the W family had been made and that Place of Safety Orders were being proposed in respect of certain other children whose surnames may have been mentioned to him. He understood that this information was given him as a courtesy. He did not consider taking any action on the information because he did not regard the matter as having been referred to him. In his own area a referral to a Reporter by a Local Authority required to be in writing so that this verbal information would not suffice. Nor did he consider giving any advice to the Social Work Department on the question whether Place of Safety Orders should or should not be sought.

5.27 Before Mr Sloan left Orkney on 22nd February he knew that the Orders were to be sought on 26th February and that the uplift was due to take place on 27th February. But he still did not consider it proper to investigate the case because the Social Work Department might change their mind. It was clear that if Place of Safety Orders were obtained his role would come into play. Mr Lee, however, saw the Acting Reporter as performing an advisory function to the extent that if Mr Sloan had thought that there was insufficient information the Social Work Department would require to consider whether they should get more information or not act at all. He regarded Mr Sloan as making an independent assessment of the case and while he accepted that it was for the Social Work Department to make the decision he believed he had discussed it with Mr Sloan. While Mrs Susan Millar regarded it as common practice to get advice from the Reporter whether there were sufficient grounds for referring a case to him she had not herself consulted him or obtained his positive approval.

5.28 Mr Sloan returned to Bellshill on Friday 22nd February 1991 and then contacted the Regional Reporter Mr Frederick Kennedy to inform him of the possibility of several Place of Safety Orders being taken out in Orkney. Mr Kennedy decided that assistance was required for Mr Sloan in Orkney because of the amount of work which would be involved. He accordingly approached another Reporter in Strathclyde, Mr Philip Jackson, who was at that time Area Reporter for the Glasgow South West Division of the Strathclyde Region Reporter's Department. Mr Sloan and Mr Jackson were to work together. Mr Jackson was assisting Mr Sloan and, in Mr Kennedy's experience, they would work in agreement with each other. Mr Jackson agreed on Monday 25th February to assist and was asked by Mr Kennedy to fly to Orkney on the following day. As at 22nd February Mr Sloan and Mr Jackson were both aware that there was a strong likelihood of Place of Safety Orders being sought and enforced in Orkney and of the need to draw grounds of referral and to hold Children's Hearings. Mr Lee had made it clear to Mr Sloan that he intended to seek Place of Safety Orders and that the children would be removed to the mainland of Scotland. Mr Sloan was told by telephone after his return to Bellshill of the intention to implement the Place of Safety Orders on 27th February.

5.29 Mr Sloan and Mr Jackson travelled up to Orkney on 26th February. Mr Sloan asked Mr Lee if he might attend the police briefing meeting in the evening of that day and having checked the position with the police Mr Lee said that there would be no difficulty in his doing so. From his earlier visit Mr Sloan knew the family names of the children to be taken into care, but not the individual names of the children nor the details of the allegations. Mr Sloan and Mr Jackson attended the meeting with the police in the evening of 26th February but took no active

part in it. Mr Sloan realised that there were papers available at the meeting giving an account of the allegations of the W children and asked D.I. Heddle if he could take a set of the papers away as he saw that the information from the W children would form the basis for a referral, but this was refused and he acquiesced in the refusal, accepting the concern for confidentiality.

5.30 Section 38 (1) of the Social Work (Scotland) Act 1968 provides that a Reporter must take certain action where he 'receives information from any source of a case which may require a Children's Hearing to be arranged'. As Mr Sloan saw it, this required something specific to be provided to him. In accordance with the procedures used in Strathclyde he would not act on information from a Social Work Department unless it was in writing. Investigation by him before the matter was sent to him in writing would, he felt, be inappropriate because of the current need for confidentiality and because it would pre-empt the work of the police and the Social Work Department. However verbal referrals were acceptable from parents and individual adult persons. Mr Sloan accepted that it was open to the Social Work Department to consult him prior to 26th February on all aspects of the case apart from the sufficiency of the evidence, but his advice should not have been such as to influence the Social Work Department in the discharge of their responsibilities. In fact, no one did consult him or request a discussion. As he saw it it was not until 26th February that the Local Authority took the view that there were children in need of compulsory measures of care and sought Place of Safety Orders on them and there was no referral to him until 27th February when the papers were passed to him. He and Mr Jackson were, however, by at least 26th February anticipating the likelihood of hearings being required.

II. The Briefing Of The Social Workers

- (A) INITIAL BRIEFINGS
- 5.31** During the early part of the morning of 26th February the Orkney Social Workers busied themselves collecting the pieces of information which they had and tying up loose ends before the workers from Strathclyde and Central Regions joined them. For the senior staff at least, the day was spent in a succession of discussions some of which were not formal meetings and some of which followed others without any clear break. Recollections understandably differed among some of the witnesses with regard to the precise order and time of some of these discussions. For some the day ran on in a continuous succession of discussions with coffee and rolls available in the team room in the Social Work Department for consumption as and when it proved convenient to have a snack. The Orkney social workers had discussed the day's events later and pooled their memories and feelings about it so that as a result their recollections were to some extent coloured by such discussions.
- 5.32** Towards the end of the morning the mainland workers arrived at the Social Work Department and assembled for a meeting in the team room of all the social workers. They had been available to start earlier if that had been desired. Members of the RSSPCC were also present, as was Miss Ann Donnan. There appeared to have been little planning as to how the day of the 26th would be spent. But after everyone had arrived the process of planning for the following day went forward.
- 5.33** Mr Paul Lee made some introductory observations, gave some words of welcome to the workers and then left. Some background information was then presented by Mrs Susan Millar to the meeting and some information given on the plans for the next day. Mrs Susan Millar made some general points and mentioned the allocation of the workers into their teams. At an early stage she dealt with the matters raised by the mainland workers at their meeting on 24th February. These included the splitting of siblings into separate placements, the workers' need for further information and the position of the mainland workers with regard to disclosure work. Some reference was made to the use of safe houses and the date and place of holding the debriefing meeting. The separation of the siblings caused concern to the mainland workers, as did the prohibition on personal possessions and the refusal of access to the children by their parents. Questions were also asked about visits to the parents following the removal of the children

and the steps to be taken for the support of the parents. Mrs Susan Millar however did not know what would be happening in the next few days. She regarded the matter as left open for the teams to determine for themselves. Mrs Hughes saw the absence of follow-up for the parents and the way in which Mrs W's support group was regarded as a reflection of some lack of objectivity on the part of the management. Ms Rena McCarry understood from Mrs Susan Millar that the police would be detaining the parents but not charging them, which was different from what she had understood before. There was also discussion about the presentation of a copy of the Place of Safety Order to the parents on the removal of the children. Ms Connor explained that that was the practice in Central Region but all that was to be done in Orkney was to have a copy of the Place of Safety Order to be shown to the parent and to give an oral explanation.

5.34 The meeting lasted about three quarters of an hour and after discussing various points Mrs Susan Millar then left. The Orkney workers had moved away earlier but the mainland workers remained to have a short discussion among themselves. Some anxiety was expressed at this stage about the lack of information. The mainland workers were conscious of a barrier being created between themselves and Mrs Susan Millar. Ms Rena McCarry sensed what she described as a 'hostile atmosphere'. It was felt that Mrs Susan Millar was not being as open as she might have been and she seemed to have a rigidity and inflexibility of manner and attitude although it was recognised that she was subject to intense pressures in a very distressing area of work and that a firmness of control was essential. The mainland field workers were told that they could leave and look around the island before returning to the Department at 2.30 pm. They accordingly went off to visit the Italian Chapel on Lamb Holm and to have lunch.

5.35 Some part at least of the morning gathering was attended by Miss Ann Donnan who had been in charge of the Camoran Centre since 17th January 1991. She was a graduate of St John's College, York and held a certificate in the care and management of disturbed children. She had worked with children in Glasgow before moving to Orkney. The Centre generally had up to three children resident in it but it had a capacity for ten children. There were four members of staff under her including Mr Michael Thorpe and Mr Martin George. She was given some understanding of how the children would be divided among the safe houses and was also given a particular briefing by Mrs Susan Millar and Mrs Michelle Miller. She was told that she should arrange for the children to have breakfast, a drink and something to amuse them. She was not to give information to the children but to listen to them. Mrs Michelle Miller was to arrange the food and drink. She herself was to tell the staff to prepare rooms at St Colm's Day Centre and the Girls' Hostel. She subsequently passed on the information which she had to the staff concerned.

(B) FURTHER MEETINGS

5.36 At some time around the middle of the day, Mr Sam McTaggart, Mr Rab Murphy and Mr Sandy Fraser had a meeting with Mrs Susan Millar in her room on the ground floor of the Department to consider the role of the team leaders. Mrs Millar chaired the meeting. The mainland fieldworkers had by this time gone sightseeing.

5.37 At this meeting Mr Murphy, Mr McTaggart and Mr Fraser were identified as team leaders. There was discussion whether there should be three teams or four. Four were eventually determined with Mr McTaggart being the team leader for two of them. Mrs Millar proceeded to discuss with the others the allocation of the social workers into the four teams. A list was jointly drawn up between them allocating the personnel so as to meet her preference to include mainland and Orkney social workers in each team. The staff to be allocated to the safe houses was also then determined.

5.38 One matter raised at this meeting was where the team leaders should be positioned during the removal of the children. Mrs Millar considered that they should be in Kirkwall. Mr Murphy felt that they should be at the respective houses so as to be immediately available. They could then respond if difficulties arose and help to alleviate any trauma. A compromise was reached that they would be positioned in the car park of the Commodore Hotel which is situated about

midway between Kirkwall and South Ronaldsay. Mr Murphy hoped that he would be able to renegotiate that agreement so that they could attend at the houses. In the event it was discovered later on 26th February that there would not be a sufficient number of cars to enable the compromise solution to be effective and with the full knowledge of the management the team leaders went to the houses.

5.39 It was understood that there was to be one woman police constable in each team and they were to be allocated for each of the safe houses. Another matter raised was what was to be said to the parents and to the children. That was a matter to be passed on to the teams later in the evening. It was planned that breakfast would be on offer at the safe houses. Drawing materials were to be provided at the safe houses in case the children wished to use them but there was no arrangement made as to what was to happen to any such drawings and it appears that they may have been taken away by the children on the aeroplane. Copies of the pen pictures were issued to the team leaders for onward distribution.

5.40 Over lunchtime Mrs Susan Millar had a meeting with the Director of Education, Miss McLeman and Mrs Liz MacLean. Mrs MacLean gave her some information about the W family but the purpose of the meeting was as a courtesy to explain that some children were going to be removed from their houses on the following day and to reassure the management of the Education Department that the children would not be taken from school. Miss McLeman appreciated that there was an overriding concern for confidentiality such that the police were uneasy that Mrs Millar was even talking to her. After the children had been removed she sought to keep the school calm and normal and happy and believed that she had succeeded.

5.41 At some stage, probably in the early afternoon, Mr Lee and Mrs Susan Millar had a meeting at the Social Work Department with D.I. Heddle and Sergeant Hanson. At this meeting some details were agreed regarding the allocation of personnel among the teams, transport of the teams, the numbers of personnel to be involved, the question who was to enter the houses first and the arrangements for the joint meeting with the social workers and police in the evening. There was some discussion about the numbers of people to attend at each house and whether the team leaders should go into the houses.

5.42 It was decided at this meeting that the teams would arrive at the four houses at 7am. Mrs Susan Millar had contemplated a slightly later time of 7.15 am or 7.30 am. A preference for 7am was put forward by the police. It was believed that this would enable the workers to arrive before the school bus and before Mr M left as it was believed he did at an early hour for work. It was agreed that the personnel would meet at the police station in Kirkwall at 6am on 27th February and final arrangements were made for the joint briefing at 7pm on 26th February.

5.43 At about 2.30 pm the social workers reassembled for a meeting which was addressed principally by Mrs Liz MacLean. The meeting lasted about three quarters of an hour. The meeting was arranged at short notice. The main purpose as Mrs Susan Millar saw it was to enable Mrs MacLean to give an outline of the work which she had been doing and to enable the social workers to meet her. Mrs Susan Millar asked Mrs MacLean to give a brief outline of the work she had been doing since November 1990 but to try not to go in to any detail. Mr Murphy had a small tape recorder which he put on the floor in front of him at the meeting. The meeting lasted for a period which was longer than the two sides of his recording tape and the final part of the proceedings was not recorded. A few weeks later he made a transcription of what had been recorded but the quality of the recording was such that the transcription was incomplete even in respect of the part which was recorded.

5.44 The meeting was opened by Mr Sam McTaggart who acted as chairman. He began by referring to the team leaders' meeting and his agreement with that group that more information should be given about the ongoing work. He explained that some people had more information than others and that information would now be given which would be repetition for some but new for others so that everyone would start off basically having the same information. He explained that following on the management group's discussions Mr Murphy, Mr Fraser and he himself would act as team leaders. He also explained that how the operation

should be conducted would be discussed later on when the groups might break up into teams to consider particular matters which would arise on the following day. In order to provide everybody with the same information he then invited Mrs MacLean to tell them about the disclosure work done with the W children over the previous two months and the sort of information 'which had placed Orkney and the police in the position where they feel that there is very strong evidence for moving in the way they have'. Mrs MacLean then took over the meeting. Her presentation lasted about forty minutes.

5.45 Mrs Liz MacLean gave a brief outline of the statements made by the W children. She explained that the children had a choice whether to come to interviews or not and that they were under no pressure to talk about any particular subject. She did not set out to describe the interview techniques but she was asked whether it was coincidental that the children had all made the allegations within so short a time. That matter particularly concerned Mrs Hughes who was suspicious at the disclosures made in so short a period to the same persons. Mrs MacLean replied that the statements were real and spontaneous and that there was no contact between the children but she also mentioned that for one child a turtle poster had been displayed and acted as a trigger. She said that they had described incidents where they had to dance in a circle, that the Reverend Morris McKenzie would often stand in the circle and take a child into the centre and abuse the child. She mentioned the playing of music, the handclapping, and the wearing of particular costumes and uniforms. She also told the workers about things which they should note including anything about animals or music or dancing. She said that there were audiotapes of interviews but no video recordings and the workers assumed from that that there would be full written transcripts available. Mr Murphy understood from what was said that the transcripts were with the police.

5.46 Mrs MacLean indicated that all the parents had been described as abusing all the children and that the nature of the abuse described by the three W children was penetrative. Mr Murphy understood that the abuse of the nine children was ongoing and he did not understand that the information must have related to a period prior to early November. Mrs MacLean stated that all of the adults and children were involved and had been named by the W children. But she also said that Mrs B was not mentioned as being there and it was not clear to Mr Murphy that Mrs B was an abuser.

5.47 Mrs MacLean had not proceeded far in her address before questions started to be asked by members of the group. A number of questions were raised by the mainland workers on the allegations which had been made and on how the work had been done by the RSSPCC. They wanted to have a clear understanding of the justification for taking the intended action. Ms Rena McCarry was concerned that all the disclosures had come within the space of one week to the same workers. Mrs Hughes sought to follow that up with questions but the answers were not sufficiently detailed to satisfy her or Ms Rena McCarry. After giving a brief answer Mrs Liz MacLean would pass on to another topic so that the question was left hanging in the air inadequately resolved. On several matters it seemed that information was not yet forthcoming. Mrs Liz MacLean spoke sometimes of being in the early stages of the inquiry. When asked what words were locally used for private parts of the body Mrs MacLean merely replied 'just the usual ones'. When asked what kind of sexual abuse had occurred she replied that it was penile penetration but when asked whether it was homosexual or heterosexual she replied that it was just the usual type. In response to the questions Mrs Liz MacLean replied in a manner which seemed to the workers to be abrupt and which discouraged further question and Mrs MacLean seemed unwilling to expand on any points.

5.48 Both the mainland and the Orkney workers were conscious and concerned that the former remained at the end of the meeting not as well informed as the latter. The information given to the mainland workers was scant compared with that which the Orkney workers possessed. In particular they had little understanding of the background to the case in the history of the Social Work Department's dealings with the W family. They had not seen the summaries of the disclosures. The mainland workers gave the appearance of being satisfied so that neither Mrs MacLean nor Mr Sam McTaggart were aware of any dissatisfaction.

No-one told Mrs MacLean at the time that her answers were inadequate. She did not understand that the workers were questioning her methodology and if she had been asked about that she would have given an account of it. The mainland workers had a growing sense of the inadequacy of the information provided to them and were left in the position of having to trust those who had the information and were leading the operation. The social workers had to make assumptions about the competence of Mrs MacLean and Mr McTaggart and it would have been helpful to have been given reassurance on that.

5.49 The Orkney social workers felt some concern at the small amount of information which was given. Mrs Michelle Miller recognised that the questions asked by the mainland workers were genuine questions which both she and Mrs Julie Lee felt they had a right to ask. She thought that an opportunity to see the summary statements would have put them in the same position as the Orkney social workers. Mrs Julie Lee felt that she just had to accept what Mrs Liz MacLean said. She seemed very sure of herself. Mrs Lee felt inhibited from asking questions as she was a newcomer to the Department. Mr Charlie Fraser understood that the information was only given on a need-to-know basis and he was aware that the amount of detail differed from what had been made available to the Orkney social workers.

5.50 Mrs Hughes was anxious for reassurance on the validity of the work which had been done and sought to test that by asking about the kind of details which to her mind should be asked to test a reliable story, such as the precise location of the last incident of abuse, the weather conditions, whether the grass was wet or the kind of music which was played. She had expected to be told about the methodology used and while she learned of the timescale of the work, of the emotional response of the children, the spontaneity of their statements, the corroboration of particular elements of the allegations, and the drawings, she still considered it important that the peripheral details which would be significant to a child should be explored. She was left with a lack of confidence in the methods used, and would have preferred to have had a wholly independent assessment of the evidence by someone other than the police, the social workers or the Acting Reporter. She had had no idea before that meeting that the disclosure work might be flawed. She also believed that the close working relationship which she saw between Mrs Susan Millar and Mrs Liz MacLean made it difficult for the former to question or challenge the work done by the latter.

5.51 Ms Fran Connor left the meeting feeling that she did not know any more than she had known before. Mr Murphy was left with doubts which related either to the professionalism of Mrs Liz MacLean's work or to the substance of the information obtained from the three children. Mrs MacLean had explained that one child had been triggered by the displaying of a turtle poster and he wondered if that child had been led. He recorded his view of her presentation as 'flimsy' and on another note questioned her credibility. Mr Sandy Fraser had doubts generally about the investigation. He had observed at the meeting that there was no medical evidence and he learned that video filming had not been taken of the interviews. While he felt free to ask questions he was left without the confidence he required for carrying out the removal of the children.

5.52 Although concern was felt by the mainland workers about the inadequacy of the information, it was not voiced by them at this stage. The meeting ended earlier than it might otherwise have done on the return of Mrs Susan Millar to the group. She expressed surprise that the briefing was still going on and asked if the team meetings had taken place. She indicated her view that the workers should move on to the team meetings. Some of the mainland workers felt that the meeting had been cut short by her arrival. Mrs Susan Millar believed that Mrs MacLean had been angered by the intrusive nature of the questions which had been asked and that the workers had to be motivated by a desire to engage in interview work themselves. But neither did the mainland workers explain their concern to Mrs Millar nor did she voice her anxieties to them. It was on that note of growing anxiety and suspicion on the part, on the one hand, of the mainland workers and on the other, of the senior management in Orkney, that the meeting concluded. Mrs MacLean however was not particularly upset at the end of the

meeting. She had no anxiety or worry that the Strathclyde workers were wanting to undertake interview work with the children.

III. The Evening Before The Removal

(A) THE CONCERNS OF THE MAINLAND WORKERS

5.53 After the meeting which had been addressed by Mrs MacLean the workers divided into the four separate teams to which they had been allocated and for about three quarters of an hour discussed matters of operational detail before reassembling for the final briefing. They were given the pen pictures of children and told their names and ages. Ms Fran Connor had made a list of all the information she could find about JM which she later gave to his foster carer.

5.54 Mr Rab Murphy's team comprised Miss Lindsey Stevenson, Mrs Maureen Hughes and Miss Lynn Drever. They discussed the successive steps of their operation with the B children, the various stages of the removal to the mainland of Scotland, which of the workers should look particularly after which child and who would enter the B home first. Details of the transport remained unclear and a question as to the presentation of the Place of Safety Orders remained unresolved. Miss Lynn Drever expressed her gratitude to Mr Murphy for the assistance of the mainland workers and Mr Murphy became conscious that she was becoming a bridge across what he saw as an increasing division between the Social Work Department and the mainland workers. Each of the other groups discussed the practicabilities of its own operation.

5.55 After the team meetings Mr Leslie Hood asked Ms Fran Connor if she would serve the Place of Safety Order relating to the M children as he had not done that before. Later on she found that Mr Leslie Hood was a student and she became the more uneasy. She told Mr Sandy Fraser that she was not confident and he said that he would come with her. She believed that the team leaders would coordinate the teams and she was not aware that there had been any thought that they would not go in to the houses.

5.56 The mainland workers returned to Stromness feeling a deep concern about the removal of the children. Their unhappiness was noticed by at least some of the Orkney field workers. The mainland workers had not been required to attend at the Social Work Department until about 11.30 in the morning of 26th February. They were released over lunchtime and free until 2.30 pm. The afternoon meeting finished at about 4.30pm and they were free again between 4.30pm and 7pm. There was time for further discussion with them if that had been desired.

5.57 The mainland social workers had hoped to be assured of the justification for the Place of Safety Orders but at the end of the day that remained a matter of concern. Ms Connor believed when she agreed to come that she would be made aware after she had arrived of more of the facts and evidence which had led to the decision to take the Place of Safety Orders. The matter had been one of growing concern throughout the successive meetings, and when, at the conclusion of the final briefing, she found herself still unsatisfied she felt frustrated. Some of the workers were very close to saying that they would not take any further part. They felt that they could not remove the children with conviction of the correctness of that action. Mr Murphy felt that the information given was still short of that given to the Orkney social workers and that the information which had been promised had not been provided. This added to a sense of lack of cooperation and trust. When analysed in detail it became more difficult to find a substantial reason for the unease and concern which they plainly felt. It was described by Mr Murphy as a basic feeling of unease.

5.58 One area of concern which the mainland workers had all along felt was the accommodation of the siblings in separate placements together with the denial of sibling access. They had understood that these matters had been decided in light of experience with the W children but the link between that case and the present one in that regard was never sufficiently explained and they were concerned at what Mrs Hughes described as a bland assumption that what occurred in the W family would also occur here.

5.59 Another area of concern of the mainland workers was the amount of information which they had received on the merits of the case. They wanted to feel comfortable with the decision to enforce the Place of Safety Orders and they felt that the material which they had was insufficient to give that assurance. While strictly the decision to remove the children was not a decision for the mainland workers to make it was reasonable for them to wish to be satisfied that the course which they were taking was appropriate. Neither Ms Connor nor Mr Murphy felt from what they had heard that they had enough information to make a decision on a Place of Safety Order. Mr Murphy was not clear how the H family were involved and also had some concern about the B family. However he took it on trust that Orkney Islands Council had had enough information and had presented it to the Sheriff. Ms Connor accepted that she had enough information to go through the mechanics of the removal and that on the evidence of the three statements some action was required of the Social Work Department. Ms Rena McCarry had expected to be told the content of the disclosure work and assumed that she would have access to any information that was available. Not having it all she was not able to satisfy herself that it was sufficient.

5.60 A further concern was in relation to the amount of information on the background and environment of the families as well as the specific involvement of each child in the alleged incidents of abuse. One purpose of this information was to enable the workers to respond appropriately to the children during the removal if anything was said. Mr Murphy accepted that the group of mainland workers had the skill to react adequately to what the children might say. What he felt was missing was detail on the background of the children and of the language they used. Another purpose of the information was to enable the foster parents to have some understanding of the background of the child for whom they were to care. Mr Sandy Fraser regarded the pen portraits as inadequate for that purpose.

5.61 Yet another concern was whether full use was being made of the level of skill which the mainland workers felt that they possessed. Mr Lee had asked for experienced workers but all they were being asked to do appeared not to require the degree of skill which they had. It was made clear from the outset that they were not to engage in any interview work. This restriction had been indicated to Mr Gilmour and to Mr Murphy on 18th February but it was an unusual one and both Mr Murphy and Mr Gilmour considered that it might be eased although the final decision would rest with Orkney Islands Council. However on 21st February it was made clear that the ambit of the workers' activities was not to be widened. The restriction was accepted but the Strathclyde workers found that the difficulty which was created for them in relation to their role remained in connection with the conversations which they would have with the children. It was apparently to be solely a role of supporting the children but the workers found it difficult to separate off entirely any part in disclosure work if the children started spontaneously to tell of any experiences. Some, such as Ms Fran Connor, felt that a prime opportunity for talking to the children about possible abuse was being neglected when they were spending some hours with the children on 27th February. But even accepting the limited role which she and other mainland workers were to play she wanted to have more detailed information to enable her to pick up things of significance which the child with whom she was involved might say, and respond appropriately to any remarks which might be made. Opinions differed on the question whether the period immediately following on a removal was or was not a prime time for an abused child to tell of the abuse.

5.62 That question was aired, and its expression may have increased an anxiety which was felt by the Social Work Department whether the mainland workers were intent on carrying out some interviewing work with the children. In fact while some disquiet had been expressed about the scope of their employment its limits had never been changed and they accepted that their role was one only of support. Mrs Susan Millar was aware of the desire of the mainland workers to have more detail of the allegations made by the W children and the possibility arose in her mind that that might be wanted for interview work. The anxiety increased when she heard of the questions addressed to Mrs Liz MacLean the purpose of which she did not understand for certain. However despite the anxiety

she did not ask the mainland workers why they wanted the information because as she put it, she 'did not want to get into that'. The limits of their role had been spelled out and there was no time to change the plan. Mrs Millar was expecting the workers to trust and accept the integrity of the Orkney Social Work Department and to accept a policy of 'need-to-know' as regards the disclosure of information. There was here a failure in complete communication which in turn gave rise to mistrust and suspicion. Ironically there were in fact no such full transcripts of the interviews with the three children as the mainland workers thought were available to give them the full picture and the information given to the mainland workers was only in matters of detailed language short of the information which the Orkney social workers had received from the summary statements.

5.63 During the course of the day various instructions were given to the social workers regarding the removal of the children. They were told what they were to say to the parents at each house. The police were to enter the house first. The social workers were to follow and were to explain that they had Place of Safety Orders for the children, that the Department were investigating allegations of child abuse and that it was believed that a Schedule 1 offence of child sexual abuse had been committed by adults. The Place of Safety Orders could be shown but were to be retained. The social workers were to ask permission for the children to be medically examined by the police. The workers were told to tell the parents that further information could be obtained from the Reporter.

5.64 The social workers were also instructed on what they were to say to the children. Mrs Susan Millar was understood to give the workers a formula of words to be used although she had not intended to dictate any precise formula. It was understood that the workers were to say that they were taking care of the children while the police talked to their parents, that their parents were not going to be hurt, that it was not the children's fault that this was happening, and that the Department's concern was that the children might have been hurt. The workers also understood that they were to tell the children that it was not known when they would see their parents again. The children were to be told that they were to be taken on a plane to their destination. They were also to warn the children that they would be medically examined.

5.65 Another matter which was dealt with by Mrs Susan Millar in talking to the social workers on 26th February related to the children taking away personal possessions from their homes. This had been discussed with Mr Sam McTaggart on 15th February and had been touched upon by Mrs Susan Millar on 21st February at the meeting with the Strathclyde social workers when she explained the concern regarding the correspondence and gifts sent to the W children.

5.66 The social workers who were to attend at the houses clearly understood Mrs Susan Millar to give an absolute instruction that the children were to take nothing away beyond the clothing in which they were dressed. They were not to take any toys or spare clothing or personal belongings of any sort. Mrs Millar said that she anticipated that the workers would as professionals use a discretion in the matter. She did not think that she had spoken in terms of a prohibition but rather had sought to express a concern and advise that the workers should err on the side of caution. Her own notes, however, even taken as abbreviated shorthand imply an absolute prohibition on the taking of any personal possessions. She also in her evidence indicated that her concern was particularly with things given by adults to the children as distinct from things which the children themselves chose to take without direction. But that distinction was not made clear to the workers. Whatever words Mrs Millar used there was no doubt in the minds of her audience that she was not leaving the workers with any discretion in the matter. Mr Lee was not sure if there was room for discretion.

5.67 The reason for concern about the retention of personal possessions was the fear that they might operate to inhibit disclosure. The view that toys or everyday objects or any personal possessions might have a symbolic meaning and operate to influence the child's ability to disclose was understood to be a view held by Mrs Liz MacLean, Mr Sam McTaggart, Mr Ray Starrs, the head of child care in the RSSPCC, and Miss Janette Chisholm who was working with the W children in 1991. Mrs Susan Millar had raised the matter with Mr Sam McTaggart on 15th

February because of the concern felt about the various letters and presents which had been sent to the W children who were in care and which it was thought might have had sexual innuendos or abusive connotations, particularly where a link was thought to exist between the reference in the communication and the later allegations by the W children. The basis on which the decision was made that the children should not take personal possessions with them was the information learned from experience with the W family. The course adopted was taken on the advice of the RSSPCC and was adopted with the intent of protecting the children. Mr Lee recognised that new toys and clothes would require to be purchased for the children and that it would be difficult to be sure that such purchases would not carry with them the symbolic message which the embargo was designed to avoid. One factor in his decision was that the police were going to search the houses and were likely to take away any objects of significance for the purposes of criminal proceedings. His decision was reached on an assessment of a variety of considerations.

5.68 The workers generally felt considerable unease about the prohibition. Mrs Mary Finn thought that it would be difficult to enforce. Mrs Michelle Miller was not happy about the decision but did not feel able to question it. She did not feel that the atmosphere was helpful for discussion and it was not discussed. The unease which Mrs Mary Finn felt over this matter was not voiced and she accepted the reasoning given. It would have been difficult to question the matter as a lot was happening and she felt she did not have sufficient expertise to challenge it. Mrs Julie Lee accepted the instruction, novel in her experience as it was, as she thought that the management must have some further information which she did not have to justify it. However she considered it went against good practice and in the event allowed the H children to have their bags packed and taken with them. Ms Fran Connor recognised the theory behind the instruction in terms of 'trigger objects' but was not happy about the complete prohibition which excluded objects of comfort. Mr Murphy voiced concern about the instruction which he saw as a departure from normal practice. But it was understood that Mrs Susan Millar had instructed that that was how the removal was to be carried out.

5.69 The social workers were also informed by Mrs Susan Millar on 26th February that the children would be split up and no access would be allowed to them by their families or among themselves. There was to be no unsupervised sibling access in the children's homes before they left. Mrs Julie Lee was not happy at this. She considered that isolation for a medical examination and an initial interview could be justified but that if the evidence was sufficient to remove the children and stood up to being tested in court the children would be safe. There was accordingly no justification for the separation of the siblings and the prohibition even of supervised access. However she did not express her feelings at the meeting because she assumed there was some further information held by the management and the police which required these measures and which it was thought she did not need to know. The mainland social workers were also concerned at this decision. Ms Connor considered that access should be allowed on either a supervised or unsupervised basis. In Mr Murphy's opinion the proper course was to keep the children together at first and then if there were problems to split them. The general feeling of the mainland workers was that the children should be together.

5.70 The mainland workers went back to Stromness and because of the concerns which they all felt they met in one of the hotel bedrooms and discussed the anxieties which they had felt during the day. They expressed doubts about the quality and sufficiency of the evidence derived from the three W children and their anxiety that they had not had access to the transcripts of the interviews with them. They were not sure if their doubt was due to the presentation of the evidence by Mrs MacLean or to the evidence itself. There was concern expressed about the decision to split the siblings without access to each other and to refuse them any personal possessions. Ms Connor would have liked to have more information on the matter of access for the parents and the siblings. Ms Rena McCarry was also concerned about the absence of follow-up with the parents and the timing of the medicals in Highland Region. All of the five women social workers felt that their professional

integrity was not satisfied. Mrs Hughes in particular wanted a justification for the decisions which had been taken. Mr Murphy did not share the depth of concern which others felt and he argued that the evidence was sufficient for the police and the RSSPCC. However it was agreed that their concerns should be raised with Mr Lee, and Mr Fraser and Mr Murphy agreed to represent the group in talking to him. In the course of their discussion in the hotel they already conceived the possibility that the operation would later come to be the subject of some form of Inquiry.

5.71 This meeting lasted about an hour and resulted in the group being delayed in setting off from Stromness to the evening briefing meeting in Kirkwall and arriving late for that meeting. Before they left Mr Fraser telephoned Mr Philip Greene in Strathclyde and told him of the concern they had. Mr Greene told him that they should discuss the matter and come back to him. Mr Murphy telephoned to the Social Work Department and explained that they would be late in arriving. This delay embarrassed and angered Mr Lee and although Mr Murphy apologised on their arrival the incident served to increase the rift between the mainland group and the Orkney Social Work Department management. Mr Murphy told Mr Lee that he needed to see him and Mrs Susan Millar after the briefing meeting and, understanding that the matter was important, Mr Lee agreed.

(B) THE FINAL JOINT BRIEFING

5.72 In the evening of 26th February a meeting was held in a room situated in the lowest part of the Orkney Island Council offices designed as an emergency operations centre and known as the Bunker. It was chaired by D.I. Heddle. It was attended by a number of the police force and the RSSPCC and members of the Orkney Social Work Department as well as the mainland social workers. Miss Donnan was the only member of the Camoran staff present. The Acting Reporters, Mr Sloan and Mr Jackson were present. It was essentially a police briefing rather than a social work briefing. The meeting was timed to start at 7pm but the mainland social workers arrived late.

5.73 The Bunker room in which the meeting was held was crowded. It had no windows. There were about fifty people there. Some were sitting on chairs and others on tables but there was insufficient seating for all so that some ten or fifteen were standing. In the crowded conditions it was not easy to take notes and the situation was one which could give rise to confusion and mis-understanding. The lack of comfort and the congestion did not assist concentration and made it difficult in Ms Connor's view to ask questions or get further explanations.

5.74 At the start of the meeting Mr Lee said a few words and thereafter D.I. Heddle addressed the meeting. He spoke of the evidence of sexual abuse of children involving the parents of four families and the local minister and explained that the police were to accompany the social workers to the houses of four families. Mr B and Mr and Mrs H were included in his list of possible perpetrators but no particular explanation was given of individual involvement. They would depart from Kirkwall with a view to arriving at the four houses at 7 o'clock the following morning. The parents and the Reverend Mr and Mrs McKenzie were to be detained for questioning. The children were to be separated from their parents and the social workers would explain the situation to the parents and to the children. The children would be removed and taken in the first place to Camoran, the St Colm's Centre and the School Hostel. Consents would be sought from the parents for the children to be medically examined. He explained that the police were to have Search Warrants and that they were to search the houses after the children had been removed. Sergeant Hanson told the relevant police officers what items they were to look for. Mrs Liz MacLean also spoke briefly at the meeting. There was an opportunity for questions to be asked and at least one question was raised.

5.75 The members of the police force but not the social workers engaged in the operation were issued with a written brief described as an operational order. This had been prepared by D.I. Heddle on 26th February. Mrs Susan Millar had not seen it before, and had had no opportunity to read it and regarded it as not appropriate for the social workers to see it. D.I. Heddle went through the brief during his talk and explained each part of it. It appeared from the order that the intention of the police was only to detain the parents and to search the houses of

only three of the four families. Mr and Mrs H were excluded both from detention and from search in the order but the order was not circulated to the social workers. Mr B however was included although he was in fact living in England. There had been no discussion between the agencies about the presence or absence of Mr B. The brief was not a joint production nor were plans made for a joint debriefing. No significant joint planning had been carried out with the police between 14th and 26th February, although Mr Lee had had about two telephone conversations with them.

5.76 Detective Inspector Heddle also mentioned the difficulties in getting evidence. He indicated that if there was no further evidence the statements by the children were insufficient by themselves for a successful prosecution. Mr Sandy Fraser understood that D.I. Heddle was not over-optimistic about the prospects of establishing criminal charges. He understood that the police required more evidence than they had and, although he accepted that the police would work to a higher standard of proof, that served to increase his general anxiety as he had believed up to that point that they had more detailed information and were in a position to make arrests.

5.77 D.I. Heddle's statement of his view of the evidence gave rise to particular doubts in Mr Murphy's mind. He had understood that the police were preparing to make arrests and the discovery that they were only going to detain the adults indicated less confidence in the case than that which he had believed existed. However the intention to detain and the fact that the police had warrants to search gave him some reassurance that the police had a belief that action was required by them although their intention not to detain the H parents made him wonder what the evidence was regarding them. Mrs Hughes was unhappy to hear that arrests were not going to be made and that the police had no additional evidence as she had earlier understood they had. On the other hand Ms Connor obtained the impression that the police were confident in the strength of the evidence.

5.78 At about 9.30 pm after this general meeting the group broke up into the various teams in which they would be working on the following day. The teams met separately in separate rooms in the main building of Orkney Islands Council Offices. They discussed among themselves the details of the next day's joint operation.

5.79 Appended to the operational order were summaries and transcripts of a number of the interviews with members of the W family. These were signed out to members of the police. They were each numbered and they had to be returned and signed for. The copies were all accounted for and signed back again that evening. D.I. Heddle sought to make it clear at the meeting that these summaries and transcripts should be available both to the police and to the social workers attending the meeting. However neither Mrs Susan Millar nor Mrs MacLean were happy that the social workers should see the documents, the one fearing contamination of disclosure evidence and the other not wanting transcripts or summaries to be made available without the drawings. One set of documents was given to Mrs Hughes in the mistaken belief that she was a police constable and she handed it back. The group which included Miss Norma Buchanan possessed a set but it was removed by a police officer who said that they were 'sub judice' and not to be read.

5.80 One matter raised at Mr Murphy's team meeting was the delay which was apparently anticipated in the carrying out of the medical examinations on the children who were going to Highland Region. As D.C.I. Gough understood it the medicals would be both to discover whether there was evidence of abuse and also more generally to confirm freedom from infection and assess the general health of the children as was appropriate for children going into care. The medicals in Highland Region had been arranged for the Friday. Mr Murphy and Sergeant Hanson discussed the matter in the kitchen of the Council offices and both took the view that it was essential that the medical examinations should be carried out at once. Mr Sloan who was present also supported this view. Mrs Hughes shared that view for the protection of the foster carers and Sergeant Hanson also accepted that point. Mr Lee then appeared and said that the Northern Constabulary were trying to rearrange the medicals.

5.81 Another matter which was dealt with on the 26th February was the provision of proof of the identity of the social workers. There had previously been problems of persons in the United Kingdom impersonating social workers and Mr Lee accordingly arranged for a special letter to certify the identity of those social workers who did not already have the local form of authorisation which had been issued to the longer standing members of the Orkney social work staff. The social workers who were to attend at the houses of the families were instructed to show their identification to the parents.

5.82 In addition to concern at the various points which had been raised during the course of the day there remained at the end of it considerable dissatisfaction in the minds of the mainland social workers at the inadequacy of the information provided to them. While what they had was sufficient for the mechanical task of uplifting the children and carrying out the various stages of conveyance to their placements on the mainland of Scotland, they were not equipped to deal with anything important which the children might say during the period immediately following the removal because they lacked a full understanding of what might be significant. At some stage after the police briefing some of the mainland social workers had brief contact with the Reporter. They were in the kitchen of the Council offices at the time. Sergeant Hanson also met him in the kitchen. He expressed a confidence about the evidence and Mrs Hughes took that as designed to reassure them. Mr Sloan recalled speaking to Mrs Norma Buchanan but did not recall expressing any view about the evidence. He might have been asked if it looked alright and he might have said yes but he had not seen the written information.

(C) THE FINAL
CONFRONTATION

5.83 At the end of the evening Mr Murphy and Mr Fraser had a meeting with Mr Lee and Mrs Susan Millar. The other mainland workers went back to Stromness. Mr Sam McTaggart was present as well as Mrs MacLean. Mr Murphy and Mr Fraser raised the matter of the lack of information given to them and in particular the transcripts, the splitting of the siblings, the prohibition on personal possessions, and whether the removal of the children was an appropriate course. The time was by then about 10.30 pm. Mrs Susan Millar was exhausted and thought that it was not practical to address the issues which were now raised. She thought it would have been more courteous for the mainland workers to have approached the management in the afternoon.

5.84 The discussion became heated, and personal, and degenerated, as Mr Murphy recalled it, into something of a slanging match which reflected the pressure under which they were all working. Mr Lee and Mr Sam McTaggart maintained that the information was adequate. Mr McTaggart tried to act as peacemaker. Mrs Susan Millar asked the mainland workers to respect the judgement of the Orkney Social Work Department. Although they did not ask to see them it was explained that the reason for the summaries and transcripts being withheld was the fear that a knowledge of them might lead to any evidence of statements made to the workers being open to challenge on its reliability through their prior knowledge. That explanation had not been given to Mr Murphy or Mr Fraser before. Mr Murphy said that he had had to raise this matter because of the concern felt by the other mainland workers and they would have to decide whether they would participate. Mr Murphy was given to understand that the operation would go forward whether or not the mainland workers participated. He and Mr Sandy Fraser indicated that they would participate and that they would go back to see the other workers and refer to senior management if they refused. Mr Lee asked him to let him know their decision.

5.85 Mr Fraser accepted that in the meeting with Mr Lee and Mrs Susan Millar he might not have accurately represented the concerns which his colleagues had raised. The feelings of the female social workers on the matters which concerned them were stronger than his and he was more ready to participate than they were. Their concern had been more particularly directed at the justification for the removal while he was more particularly concerned to have the decisions on personal possessions and separation of the siblings changed. In retrospect he appreciated that he was not seeing the matter clearly; it would have been wiser

to leave the matter of separation to the debriefing meeting and he recognised later that his raising it as an issue in which the workers might refuse their participation was a significant departure from the high standard of work which he was trying to achieve. Mr Murphy's sole substantial concern regarding the removal of the children was his lack of information on the personal backgrounds of the children. To have indicated to the Social Work Department in such circumstances that there was a risk that members of the group would refuse to participate was as he accepted in retrospect unfortunate and did not demonstrate a high level of professional behaviour.

5.86 The absence of any strong spirit of cooperation on the part of the mainland workers was due not only to the stressful situation and the difficulty in understanding something of Mrs Millar's requirements but also to the absence of any opportunity to discuss all the available information and to do the basic ground work together with the Department in Orkney. Mr Fraser was conscious that the mainland workers were the only ones who were asking questions and they seemed to be separated off from the others. Certainly by the evening of 26th February their approach to their colleagues in Orkney was not supportive. A further factor was that while the mainland workers had been seconded to the Orkney Islands Council no one of them had been appointed as their senior member. Mr Murphy and Mr Sandy Fraser assumed that role but no one had any power to give instructions to any member of the group. Mr Greene believed that Mr Fraser was the manager and had been designated as such. But however that message was conveyed it had not been understood by the recipient nor by the team. The absence of any clear management responsibility did little to help their morale.

5.87 Mr Sandy Fraser and Mr Murphy returned to Stromness. Mr Fraser phoned Mr Gilmour at about 11 pm to discuss the position with him. Mr Gilmour said that they were in a difficult position and asked Mr Fraser to pass on his understanding and appreciation. He said that they should act in the best interests of the children and that they were on secondment to Orkney and at Orkney's disposal. Mr Gilmour understood that the workers had decided that they would go ahead and he did not believe that he was being asked to give guidance. They talked round the point however and what he said was understood as an indication that the workers should participate.

5.88 The workers then met together and decided that they would all participate in the operation on the following morning. When they learned that the operation was to go ahead the next day even if they pulled out they felt that it would be damaging to the children if they were to do that. They felt that they had to accept that Orkney Islands Council were confident that they had sufficient evidence. They accepted that the Council was acting in good faith and that their role would be to receive the children and do their best for them. But even at that stage they talked about the matter having to be the subject of a later Inquiry. The public reaction to the removal and the merits of the action were in their minds. A telephone message was sent to Mr Lee at about 11.30pm that they would all participate. Mr Fraser telephoned to Mr Greene and told him that they were willing to proceed as it would be less damaging to the children and the families. The final day of preparation ended. The operation was due to begin some six or seven hours later.

VI THE REMOVAL OF THE CHILDREN

I. The Commencement

6.1 At 6am on 27th February 1991 the whole teams of social workers and police officers gathered at the Police Station at Kirkwall. Mr Lee and Mrs Susan Millar were also there. It was confirmed that the copies of the Place of Safety Orders had been distributed for showing to the parents. Mrs Susan Millar assumed that the Orders would be taken on to the foster carers but there was no policy on that and the point had not been considered and resolved. Mrs Susan Millar regarded the transmission of the Orders as a matter for the leaders of the groups to have worked out at their separate meetings. Mr Murphy gave copies to each of the workers in his team who were attached to a particular child for onward transmission to the foster carers. Mrs Mary Finn understood that the copy which she received was to be so transmitted but Ms Fran Connor who was in Mr Sandy Fraser's team had no such instruction and left the copy with Mr M. The letters of authorisation were also distributed to those social workers who did not have proof of identity so that they could be shown to the parents but not left with them. Mr Leslie Hood noticed that his letter described him as a qualified Social Worker which was incorrect but he did not regard the matter as of sufficient importance for him to point it out.

6.2 Mr Murphy asked Mr Lee if there was a document for parents to sign consenting to medical examinations but was given to understand that there were no specific forms available. There had been discussion on the obtaining of consent from the parents and the intention was simply to ask for their consent. There had been no discussion on what was to happen if consent was not given.

6.3 In due time the social workers and the police boarded the motor cars which had been assembled at the police station and set off towards South Ronaldsay. The homes of two of the families lay some distance further away than the homes of the other two families. In order that all four teams should arrive simultaneously two teams required to delay on the journey. Eventually all four teams of police and social workers arrived at the vicinity of the respective four houses. The police who were involved in the uplift of the children were in plain clothes. It was then 7am and it was daylight.

6.4 After the cavalcade had departed Mr Lee and Mrs Susan Millar went to the Social Work Department and remained there while the operation proceeded. Mrs Millar was the team leader and was seen by the staff to be in charge of the operation as overall coordinator. Mr Charlie Fraser was also at the Department that day. It had been part of the earlier planning that he would remain on duty at the Department and he had not attended for the whole of the meetings on 14th or 26th February. Although Mrs Michelle Miller returned to the Department later in the day it was not considered that any fieldworkers were available to visit the parents of the four families. The staff in the Department were in a state of nervous tension. The intention was that the Department would operate as a centre for communication. Attention also had to be given to the ordinary work of the Department and the staff who were left in the office were engaged there all day. D.I. Heddle monitored the police actions during the day and on 28th February returned to Inverness.

6.5 While the operation of the removal was getting underway steps were being taken to prepare the safe houses. Miss Anne Donnan arrived at Camoran at 7am. Mr Martin George and Mr Michael Thorpe were there. Mrs Michelle Miller arrived with sweets, drinks, and toys. She gave the substance of the pen pictures for the M family to Mr George and for the T family to Mr Thorpe. The staff then

separated, two going to St Colm's and two to the hostel at Kirkwall Grammar School. Ms Rachel Adam and Mr George went to St Colm's which was situated in the outskirts of Kirkwall on the main road leading to Stromness. They arrived there about 7.30am.

6.6 Camoran is situated about a mile outside the centre of Kirkwall. It is a residential home accommodating ten children in five bedrooms. In February 1991 there was only one child resident there. Mr Martin George who was a resource worker employed by Orkney Islands Council was responsible for the day to day running of the home. He had at that time no formal qualifications but had had experience of working with epileptic children and with emotionally disturbed children. Mr Michael Thorpe was a resource worker who had worked there full-time since July 1990 having been a relief worker prior to that. He had no formal qualifications and had worked as a voluntary worker and as a residential social worker in England before he came to Orkney.

6.7 Mr Charlie Fraser was entrusted with the task of informing those at the safe houses of the arrival of the aircraft so that they could take the children to the airport. A call was made to Wick to ascertain that the plane had taken off and Mr Charlie Fraser was informed that it would be due to arrive in fifteen minutes. He telephoned to the safe houses to inform them to leave for the airport but he then learned that there was fog at Kirkwall airport and the plane's arrival was delayed. He telephoned the safe houses but by that time all the groups had left for the airport. In the event they each had to return to the safe houses and await a further call to tell them that the plane had managed to land. Once the children had been uplifted Mr Lee rang Highland Region to arrange for the plane to be met at Inverness.

II. The Removal of The B Children

(A) THE B FAMILY HOME **6.8** Mr and Mrs B had moved from England to South Ronaldsay in 1976 having visited Orkney the year before and having decided to settle there. As regards their children, WB was born in January 1978, EB was born in January 1980 and SB was born in October 1982. In 1988 Mr B went south to seek more remunerative employment and had spent most of the time since then working in England. Mrs B remained in their house in South Ronaldsay. This was a two-storeyed house not far from the M's house but a considerable distance from the houses of the H and T families. In front of the house they kept a caravan which comprised two bedrooms, one for each of their two daughters WB and EB. That some of the children were living in a caravan was unknown to the team who came to uplift them. The house was entered through a porch the door of which was only a few paces from the door of the caravan. The porch gave access to the kitchen from which a stair led up to a landing off which there was a bathroom, a bedroom occupied by SB and a bedroom occupied by Mrs B.

6.9 The team appointed to collect the B children comprised Mr Rab Murphy as the leader, Miss Lindsey Stevenson of RSSPCC, Miss Lynn Drever and Mrs Maureen Hughes, social workers from Orkney and Strathclyde respectively. Detective Sergeant John Miller was the police officer in charge and with him were Detective Sergeant Mackay, Constables Locke, Fiona Wallace and Pamela Ross. During the journey Miss Drever said to Mr Murphy that she was glad that the mainland workers were with them and that it was the right thing that they were doing. Mr Murphy said it was strange that they had been unnecessarily excluded from information. He felt that she was seeking to bridge the gap between the mainland workers and the Orkney management.

6.10 Mrs B had got up as usual between 6.15am and 6.30am in order to wake WB at about 6.50am in time to catch the school bus. On this morning she had gone out to the caravan, woken WB and gone back to the kitchen. Then she heard the noise of cars outside the house. She recalled that Mr and Mrs M had said that owing to their involvement with the W family the Social Work Department could come and take their children and her heart sank. The Police approached and knocked on the front door. When Mrs B appeared they then explained their

presence. Mrs B responded by shouting at them and the social workers were called over. Mr Murphy also approached the house. He endeavoured to show his proof of identification but the situation was not sufficiently calm to enable the social workers to explain who they were or why they were there. Mrs B made a number of remarks and the social workers found it difficult to talk to her. Mr Murphy endeavoured to calm Mrs B as she continued to protest that they should not take the children away.

6.11 WB had woken up before the police and the social workers arrived. She emerged from the caravan in a dressing gown obviously distressed and stood in tears held by her mother in the confined space formed by the side of the caravan and the front wall of the house. Mrs B grabbed her and hugged her, shouting observations to the workers to the effect that they were evil, that they were not taking the children and why could they not let her prepare the children. She also said that nothing of a sexual nature happened in her house. She said that there was no one there and said something to the effect that 'this isn't like other parts of the parish'. The social workers attempted to calm her and encourage her to return to the house. While they were so engaged she led WB to the porch and WB slipped into the house, went upstairs and locked herself in the bathroom. Two social workers and a police officer followed her upstairs.

6.12 Meanwhile EB was still in the caravan. She had been awakened by her mother screaming that the children were not be taken away. Constable Pamela Ross and Miss Lindsey Stevenson came into the caravan and asked her to get up. They then with Mrs Maureen Hughes' assistance helped her to get dressed and then took her out to one of the cars waiting in the road. Mrs B went out to the caravan and found that she was not there. She saw EB going to the car and tried to hold on to her while Constable Ross and Miss Stevenson tried to pull her away. EB was released and taken to the car. Mrs B saw EB sitting there with a bewildered expression on her face the recollection of which Mrs B still finds distressing. She gave EB some words of comfort and then told the police and social workers that EB was asthmatic and would need her inhaler and certain tablets. Mrs B saw that EB had one inhaler with her and ran back to the house to search for the tablets but in the state in which she was she could not find them. Mrs Hughes went to take some medication from EB's school bag but Mrs B gave her a box containing some medication and she took that to the safe house. Mrs B took an inhaler to EB and then returned to the house to find SB. She was in a state of great distress, crying and wailing. Constable Ross passed two inhalers and some tablets to Miss Stevenson to take to the foster home. While the evidence on the detail of the medication was confused it appears likely that EB had a sufficient supply of the medication she needed.

6.13 SB had been sleeping in his bedroom upstairs but had woken up hearing his mother screaming and Constable Ross trying to calm her down. He got up. Mrs B found him on the staircase and was cuddling him while Mr Murphy with others of the group were trying to persuade her that the best interests of the children were being considered and that it would be better for them to be calm and to minimise their trauma. SB was crying and upset. Mrs B continued to protest that nothing untoward had happened. She took SB to the lounge on the ground floor. She continued to make abusive remarks to the police constables but was becoming more controlled and was proceeding to dress SB. She tried to banter with him and to make light of the situation. She made reference to an appointment he had to have some teeth removed by the dentist the next day. At one stage she left the room and managed to lock the two police constables out but Mr Murphy let them in again. Mr Murphy endeavoured quietly to reassure SB, who said that he did not want anything to happen to his mum and dad. The worst part for him was actually being taken away. He understood that he was not allowed to take any special possessions with him.

6.14 Mrs B said that no new clothes were to be bought for the children, or things that would spoil them and make them a step above themselves. Mrs B had great difficulty in letting SB go but eventually the police pulled her arms away by the wrists and removed him from her grasp. Mr Murphy put his arm on SB's shoulder and walked with him to the car. Mrs B ran after him and when he reached the

car she gave him the same words of comfort as she had given to EB. She then went back to the house to see to WB. When Mr Murphy and SB joined EB and Miss Lindsey Stevenson in the car SB introduced his sister to Mr Murphy. The children seemed relaxed and were chatting freely and laughing. SB said that he was going south in May to his dad and that he missed him since he went away at Christmas. Mr Murphy left them and returned to the house.

6.15 After WB had locked herself in the bathroom on the upper floor of the house the two social workers and some of the police who followed her sought to explain through the door what was happening and WB said that no one had done anything to them. One of the police came with a tool and was about to force the door when WB opened it voluntarily. She then sat on the floor crying and Miss Lynn Drever sat beside her and talked with her. WB said that she would rather be taken from school than from home and when Miss Drever explained that the decision had been taken in order to avoid publicity WB said that the neighbours would see. She said that her parents would not harm her and she was worried for her mother's health lest the experience would hurt her. Miss Drever sought to reassure her. Mrs B came upstairs and WB then went to the caravan to dress. Miss Drever chatted to her as she got dressed. Her occupation of the bathroom prevented its use by the other children. The children had nothing to eat or drink. They were allowed to take nothing with them. At some stage Mrs B endeavoured to telephone to her husband but was stopped from doing so. She said that she wanted a lawyer and was told that a lawyer would come later.

6.16 Mr Murphy returned to the house to find WB getting dressed. He spoke to Mrs B about the Place of Safety Orders and the reasons for them. He did not show them to her and had not done so earlier because of the disturbed situation. No copy of the Orders was left with her. Mrs B told him that the children were not to be medically investigated as it traumatised them. She said she would not see the children again but Mr Murphy told her that that would be decided by the Children's Hearing. Constable Mackay however said that she would see them and would get them back, which was an understandable observation but an inappropriate one. WB had left the caravan and turning to her mother she put her hand on her arm and asked if she was alright. Mrs B then broke down and WB was taken to join the other children in the car. She was more upset than they were. Mrs B was taken back into the house. WB told the other children that the situation was not funny and they stopped laughing. Mr Murphy left the house and checked that the children were all in the car with a Constable and Miss Stevenson. They seemed fairly settled. WB was showing the most signs of distress. In the car EB understood someone to say that they were going to a place of safety 'because we know that something bad is going on'. For her leaving home and her medical examination were the worst parts. WB recalled Miss Stevenson saying 'I have reason to believe you have been harmed'. The worst part for her was saying goodbye to her mother. She understood that the separation would be for seven days. The car moved off to Camoran and Mrs B was left alone with the police.

6.17 The police proceeded to search the house and then Mrs B was taken to a police station to be interviewed. She was brought back home by the police at about 4pm. She was in a highly distressed condition. She ran upstairs screaming for her mother who had been dead for twenty-one years. She desperately wanted company and telephoned to a neighbour who came round to see her. She sought to telephone her husband but her distress was such that she could not explain what had happened and the neighbour had to break the news to him. She visited the M family that evening and a number of people came to visit her. One had the idea of telephoning the newspapers and she telephoned to one of them.

(B) THE SAFE HOUSE **6.18** The party with the B children arrived at Camoran at about 8am. Mr Murphy phoned the Social Work Department to advise that they had reached there. Breakfast was set out but the children did not want to eat. WB was tearful and sat on a sofa with Mrs Maureen Hughes and the two female constables. After a period the children were separated. SB went to a small room with Mr Murphy and Miss Lynn Drever. Mr Murphy told him that it was believed that adults had been hurting him and he was being taken to a safe place while the police spoke

to his mother. SB indicated that he did not know what the problem was and that it was not his mother's fault. He said WB would be unhappy to leave but EB would be happy. There was a poster in the room of some athletes and SB pointed out various parts of their anatomy. He seemed to be trying to shock the social workers. He also said that his father would return in two days and sort it all out. He expressed concern about his dental appointment as his mother would be expecting him there. SB was concerned about WB and it was decided that he should rejoin her. All he understood was that he was going on a plane to Glasgow.

6.19 EB went to another room with Miss Lindsey Stevenson and Miss Ann Donnan. Miss Stevenson sought to let EB relax. She told EB that she would be taken to a family who would look after her and she asked her about her interests and her school. EB was animated and was enjoying herself. Miss Stevenson told her in accordance with what she understood to be the formula which had been given to all the workers that there was reason to believe that she was being hurt by someone and so she would be living with someone else until the matter was resolved. Something was said about it not being known when she would see her parents again. She was told she would be taken by plane to a nice family who lived it was thought in Strathaven. However it was not at that stage known by the workers precisely who the foster carers would be and in fact the girls' foster carer lived on her own. She spoke enthusiastically of a past journey south and of her interests. She was lively and talkative. She asked if her foster carers would give her clothes and how she could get a card for her mother for Mother's Day. Later she said no one had hurt her and she related the concern to bullying at school. WB remained in the lounge with Mrs Maureen Hughes and Constable Ross. She gradually became less distressed. An explanation was given to her that there was information that she might have been hurt or harmed or been present on an occasion when children were hurt. But she denied that.

6.20 When the children were reunited they played with various toys which they found there. SB and EB were boisterous and excitable and seemed to be enjoying themselves. SB and EB played games with Miss Lynn Drever and Mr Rab Murphy. A good relationship was created between SB and Mr Murphy. SB noticed some video cassettes and was asked if he would like to watch one. He asked if there were any evil ones and when asked what kind that was he replied that he meant ones about the devil. He then continued playing. He played with action man toys. EB played Monopoly with Miss Donnan, Miss Stevenson and the Constable and WB played pool. They watched TV and ate sweets and crisps. WB remained upset. She was worried that people would see her leaving Camoran. She said she knew that the W children had been taken off the island and not returned. She was frightened and did not want to go on the aeroplane.

6.21 The children left for the airport. The plane had not arrived and accordingly the team had to return to Camoran with the children and they again played games. WB was once more in a distressed state. They were then again told to proceed to the airport and they finally left the centre at about 11.30am. Mr Murphy had been told to drive through the security gate and onto the tarmac. Mrs Susan Millar understood that it had been arranged that the car would drive on to the tarmac to be close to the plane. The gate was closed but he managed to open it and drove onto the tarmac. He was then told by a member of the airways staff that he should not have driven onto the tarmac, and was told by a police officer to take the car off the tarmac. He was also told that no one was to board the plane until the airline staff had received a passenger list. There appeared to be some lack of organisation with regard to the cars coming onto the tarmac and the loading of the plane. The children eventually boarded the plane but before doing so SB ran back to Mr Murphy and unexpectedly gave him a hug.

(C) THE JOURNEY TO THE
PLACEMENTS

6.22 On the flight SB arranged a window seat for Miss Lynn Drever and himself. He was cheerful through the flight. He noticed BT crying and accepted as he put it that people cope in different ways. He was surprised to see PH and WB asked who he was.

6.23 The B children flew to Glasgow. When they arrived there they were met by Mr Philip Greene and were taken with Miss Lynn Drever, Miss Lindsey

Stevenson and Constable Pamela Ross in two cars to Yorkhill Hospital. There was then a long wait for their medical examinations. Afterwards SB said 'I know what they did to you'. SB then said goodbye to his sisters EB and WB, gave them some drink which he had saved and went off with Miss Drever and Mr Greene to his foster carers. They went first to the wrong address. The foster carers had evidently moved house but their new address was eventually ascertained much to SB's disappointment as he thought he should go to join his sisters. Some delay was caused by the difficulties which Mr Greene encountered in trying to ascertain the correct address. He had taken the address from a record at HQ but the record had not been updated. It took him an hour to trace the correct address as the staff who could have advised him were absent as it was a 'day of action'. The correct address had been faxed from Strathclyde Regional Council to Orkney on 26th February. SB meanwhile was hungry and upset. Mr Greene drove him to his foster carers' address and SB was delivered into their care. Miss Drever told him that Miss Lindsey Stevenson would visit him the next day. Miss Drever also arranged for him to phone to his sisters that evening. She explained to the foster carer what had happened during the day and gave her sufficient detail to enable the foster carer to deal with any trauma SB might have. Throughout the process of removal the social workers who had been entrusted with the B children acted in a calm and reassuring manner with a warm friendliness and sensitivity.

6.24 After SB had been driven away by Mr Greene EB and WB were taken to their foster home also in Glasgow. They were accompanied by Miss Lindsey Stevenson, Mr Brian Tolmie a Strathclyde social worker and Constable Pamela Ross. They arrived late having lost their way. Miss Stevenson told the foster carer of EB's asthma. The foster carer asked for more information about the children than what she already had but Miss Stevenson knew nothing more that she could tell her. The workers stayed for some twenty minutes and Miss Stevenson said that she would return the next day.

III. The Removal of the H Children

- (A) THE H FAMILY HOME **6.25** Mr and Mrs H moved to Orkney in 1989. They had been living in Somerset, came to Orkney on holiday, liked the area and decided to settle there. They had two children, PH born in June 1981 and TH born in September 1982. They purchased a house in South Ronaldsay. The children were educated locally and had attended local functions in the past in fancy dress. PH had dressed as a teenage mutant turtle at a carnival and at Halloween they had dressed up as learner ghosts.
- 6.26** The team allocated to the H family consisted of Mrs Julie Lee, Mrs Norma Buchanan, Constable Susan MacLaren and Constable Stewart. Mr Sam McTaggart was the team leader. They travelled in two cars with Mr McTaggart driving Mrs Lee and Mrs Buchanan with the police in the other car. The police went to the front door and knocked loudly on it. The knock was answered by Mrs H. She was in her nightclothes. The police showed their warrant cards and introduced themselves and the social workers. They entered the house. The police opened the conversation. Mrs Julie Lee explained briefly that the children were believed to have been abused and that Place of Safety Orders had been obtained for their removal. She did not show her identification nor did Mrs Norma Buchanan.
- 6.27** Mrs H's immediate reaction was one of anger and distress. She called on her husband who was upstairs in bed. It was then ascertained that he was suffering from a brain tumour. He had been working in the south of England but due to his illness had not worked since Christmas. He came downstairs and became very angry. Mrs Julie Lee was concerned to calm the situation. The only information she had had on the family was from the pen portraits and nothing had been disclosed of Mr H's state of health. Both Mr and Mrs H shouted abusively at the group and made some threats of violence which were not carried out. Their raised voices were audible to the children who were upstairs in bed. PH got up, overheard the voices downstairs, and went to his sister's bedroom and told her that the social workers and police 'want to take us'. TH then got up and the children locked themselves into the bathroom. They did not require to catch the bus to school as it was close by and did not require to get up at 7am.

6.28 Mr and Mrs H continued to demonstrate their anger and their determination that the children should not be removed. They insisted that their children had not been touched. Mrs H said that the family had a complete lack of confidence in social workers. Mrs H went upstairs with Constable MacLaren and dressed. Constable MacLaren came on some horror novels in the bedroom but did not remove them. She had been instructed to look at any books relating to unusual practices. Eventually the situation became calmer. Mr and Mrs H sat with some of the workers around the kitchen table and conversation became possible. One element which eased the situation was the consideration that it was not necessarily abuse by Mr and Mrs H which was being investigated. Mr and Mrs H both recognised the need for calmness in the interests of the children. Their angry reaction to the arrival of the police and the social workers was regarded as entirely natural and it was noticed that their hostility was directed more against the social workers than the police. Mrs H wrote down the names of the police and the social workers. Mr H was seen to be pale and shaking and he required to sit. Mrs Julie Lee showed Mrs H the Place of Safety Orders and gave an explanation of them but Mrs H could not take in the wording and was unaware of any explanation given to her. Mr and Mrs H endeavoured to contact their solicitor but without success. He did however contact Mr Lee at 9.47am.

6.29 Mrs H eventually agreed to help Constable MacLaren to dress and prepare the children and pack their bags. Mrs H called them out of the bathroom. Mr H was meanwhile downstairs with Mrs Buchanan and Mrs Lee who were talking with him. Both Mrs H and the children gave way to tears at times. The children came downstairs with their bags packed and each with a couple of cuddly toys. Mrs H gave them a fluffy dog which had a printed message of affection on it. TH thought there was some doubt about what she was allowed to take but Constable MacLaren, who was not aware of the restriction regarding personal possessions until later, let her take the cuddly toy with her. PH recalled that he also took such a toy. Contrary to the instructions they were allowed to keep them. Constable MacLaren told the children that they were going away on an aeroplane and that they should treat it as an adventure. The children washed and tidied themselves. Mrs H prepared some breakfast for them. Constable MacLaren agreed that the children should have breakfast with a view to allowing the situation to calm down, but while TH ate a little PH was unable to eat. His mother and his father cuddled him in turn and he and Mrs H again gave way to tears. Mr H sat very quietly, staring ahead and seemingly resigned to the situation. He was still shaking when the children left.

6.30 The social workers took the children out to the car. It was about 8.30am. They delayed to see PH's pet budgerigar and to allow TH to say goodbye to her pet rabbit. Mrs H came out to the car and she and PH were in tears. The children entered the car quietly and Mr Sam McTaggart who had remained in the car all along drove them away to the hostel at Kirkwall Grammar School. Mr and Mrs H were left alone. The police had talked and chatted to the children but Mrs H had found the social workers cold, quiet and indifferent. They had asked no questions about the health or diets of the children. They had asked for consent to have the children medically examined and Mrs H had said that she would agree if the examination was done by Dr Broadhurst. She later refused to give a written permission for medical treatment so that if the children did fall ill she would have to be approached and could learn something about the children. If she had been asked to consent to each of the children being given a psychiatric examination she would have consented as that might have helped to clarify the position.

6.31 After the police and the social workers had left with the children Mr H telephoned to Mrs H's mother who lived nearby. She came to the house. Their solicitor came at about 9.30am in response to a telephone call. Mr H also telephoned to his Member of Parliament, to Dr Broadhurst and to the Reverend Morris McKenzie. He also spoke to the local councillor, Mr Annal, and to a reporter from the local paper, *The Orcadian*.

(B) THE SAFE HOUSE **6.32** The party arrived at the hostel at about 9 o'clock, about an hour later than the T children. At the hostel the group were met by Mrs Michelle Miller who

invited the children to have something to eat. Constable MacLaren and Mrs Norma Buchanan remained with them. The children were talkative and animated, ate reasonably well and were easy to manage. Mr Sam McTaggart joined with them and they talked together. Mrs Julie Lee explained to the children that there was concern that they were being hurt and that they were going to be placed with foster carers. They would travel by plane. Beyond that they were not told where they were going or with whom they would be staying. That was the worst aspect for PH. He understood Constable MacLaren to say that she would explain on the plane why he was being moved from home but she did not do so. They were told that they were not to blame. The children accepted calmly what they were told and did not ask questions. They talked about previous journeys they had made and they spent the time drawing pictures and watching television. The children were not separated except when they went to the toilet. Mrs Michelle Miller decided to keep them together. They were relaxed and talkative.

6.33 In due course at about 10.35am they set off for the airport only to find that the flight was delayed. The children seemed disappointed at the abortive trip but remained calm and well-behaved. They returned to the flat and Mrs Michelle Miller brought further reading and colouring books for them. The children watched television and engaged in drawing and colouring pictures. TH became sleepy and PH seemed tired. Mrs Michelle Miller drew up a list of their likes and dislikes regarding food and added a note about their bedtimes. This accompanied the children to their foster placements.

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6.34 At about 12 o'clock they returned to the airport and drove on to the tarmac close to the plane. Mrs Michelle Miller accompanied the group to the airport and then returned to the Social Work Department. The children were talkative and excited but well-behaved on the flight. They sat with Mrs Buchanan and Constable MacLaren and talked easily with them. PH spoke to Mrs Buchanan about the W children having been taken away from home and when Mrs Buchanan said that children had to be protected from people hurting them PH replied calmly that his parents had never hurt them. Mrs Buchanan said that sometimes it is other people who have hurt children but PH was distracted at that point and said nothing more on the subject. Mrs Buchanan was not attempting to develop what PH was saying but was endeavouring to avoid discouraging him from speaking if there was something he wanted to say. His remark was passed on to Constable MacLaren and by her to Sergeant Hanson.

6.35 After landing at Inverness Mrs Julie Lee and Mrs Norma Buchanan drove with the children in a minibus to the children's centre at Ferintosh where all the children who were being placed in Highland Region gathered in a waiting area. They were then told the addresses of the foster placements. Mrs Julie Lee and Mrs Norma Buchanan went with PH and TH by car first to TH's foster placement where they received a friendly welcome from her foster carer. The foster carers were elderly. PH was tearful and agitated. TH appeared to be in a shell-shocked condition and cried on her arrival. It was the first time since the journey had begun that she had been tearful. It had been thought that it might be a comfort for PH to see where his sister was settled. There were other children in the house. Mrs Lee helped to unpack TH's bag and sort out her clothing. There was a small soft toy packed in the bag with the affectionate message 'I love you this much' printed on its front. TH said that it belonged to her mother. As PH prepared to move on to his placement he beckoned quietly to TH to give him the toy and she gave it to him. On PH's departure TH became tearful and silent. Mrs Lee attempted to console her and encourage her to take off her coat but without success. Mrs Lee stayed for about an hour altogether but then left saying she would phone later. She did so later and learned that TH was talkative and had settled down.

6.36 PH was taken on to his foster placement with Mrs Norma Buchanan. They were given a lively and friendly welcome by his foster carer and PH went off happily with her to see his room. The foster carer had to go to work at 3.30pm and although a relation was there, Mrs Buchanan decided to wait until the foster carer and her husband had returned later in the afternoon. The foster carers had two children and after they had arrived PH played with them in the garden. He

displayed little shyness and responded easily to the friendly approaches made by his foster carers. Mrs Norma Buchanan informed them of the suspicion that PH might have been sexually abused and of the proposed medical examinations and interview work. She left telling PH that she would call to see him briefly the following day.

IV. The Removal of the M Children

(A) THE M FAMILY **6.37** The M's house was a two-storeyed building with a farm and farmlands adjoining. Both Mr M and Mrs M were trained teachers although Mrs M was not qualified to teach in Scotland. They had earlier lived in England and farmed a small area there but had moved to Orkney to find a larger area of farmland. Mr M had supplemented his income by undertaking part-time teaching being a graduate and a qualified Secondary School teacher. Mr and Mrs M were Quakers. The house was situated a considerable distance from the houses of the H and T families but not far from the B family home. Access to the front door was obtained through a conservatory. That led through a hallway to the kitchen from which a stair led to the upper floor and to bedrooms occupied by the two children SM, born in January 1976, and JM, born in September 1979.

6.38 The team concerned with the M family comprised Mr Sandy Fraser as the team leader, Mr Leslie Hood and Ms Fran Connor and five police constables including D.C. Gall and Constable Anne Millar. Mr Leslie Hood was not a qualified social worker although he was an Honours graduate with a Post-Graduate qualification in Community Education. On the previous evening as narrated in Chapter 5.55 he had told Ms Fran Connor that he had not served a Place of Safety Order before and Ms Connor accordingly took over that responsibility.

6.39 The group arrived at the M's house at about 7am. The police knocked at the door. Mr and Mrs M were still in bed. They got up, and went to the door. When the door was opened they saw the group of eight people all in plain clothes standing in the conservatory outside the front door. D.C. Gall explained that they were investigating suggested lewd and libidinous practices. Mr and Mrs M were shocked and denied the allegation saying it was ridiculous. Ms Fran Connor explained that they had Place of Safety Orders on the two children. When Mrs M heard that she said 'Oh so you have come'. She said that because a short while before her younger son had asked if they would be taken away as being children of a family which had supported the W children. Mrs M had replied that she hoped not.

6.40 Mr M sought to check the identification of the visitors expressing concern that the social workers' certificates were not official identity cards. In due course he started noting down the names of all the staff. He spoke in particular with D.C. Gall. Mr and Mrs M, as Quakers, displayed the courtesy and control which might be expected of those of that persuasion. They did not show any aggression and would have preferred to spend a little time in discussion over tea. They invited the police and the social workers into the house to discuss the matter.

6.41. Mrs M sought to make tea for the group of police and social workers and they were offered tea. She made the tea as a matter of automatic habit and tried to encourage the group to sit down and talk but she did not succeed. Ms Fran Connor told Mr M of the belief that the children had been abused and that the parents might have taken some part in that. She explained the time limit on the orders and of the parents' right to appeal to a Childrens' Hearing but Mr M did not take in the explanations which she gave. Mr M calmly said that there was a contravention of Scottish Office procedure in that the parents had not been invited to a case conference. The police explained that that was inadvisable in the circumstances. Ms Fran Connor showed Mr M the Place of Safety Orders and left them with him. She had no instructions what to do with them and simply followed her own practice in Central Region. Mr M was asked to consent to have the children medically examined but he replied that he would want to see a lawyer and would want to be present. He wanted one doctor present who would be wholly independent. Two telephone calls were received and answered by Mr M

in which he stated that 'they are here' and that the children had been removed under Place of Safety Orders.

6.42 Mrs M went upstairs with a constable and Mr Leslie Hood to wake the children while Mr M remained downstairs listing the visitors and trying to read the Place of Safety Orders. He was in a state of shock. The Place of Safety Orders gave him no explanation of the legal processes which were to follow. Mrs M began to rouse JM and told him that the worst had happened. JM woke to find the people around him. He got dressed. SM had woken to hear voices on the floor below. He heard his mother screaming and he considered escaping through his window but thinking that it would not have been fair to his brother or his mother did not do so. Mrs M found him awake and apologised to him. Mr Leslie Hood left JM as he was getting dressed and hearing SM moving in the next room went through to him. SM got up and Mr Hood stayed with him while he dressed. They all came downstairs. Mrs M told the boys that she and their father were being accused of doing naughty and sexy things to them. SM then swore and stormed upstairs. JM stood in the hall looking tired and sad. He did not understand what was meant by her remark. He did not cry but wondered if he would return. The worst thing for him was not knowing what was going on. Ms Fran Connor explained to him that he was going to a safe place and his parents would be staying at home but he showed no reaction. Mrs M was asked to consent to the children being medically examined and she replied that the children should be asked.

6.43 SM returned downstairs. Mrs M was not encouraged to give food or drink to the boys, but the children were given tea. They completed dressing and went to the toilet. When it was suggested by their parents that the boys should take something with them such as a toy or a book, that was refused. SM thought he was being taken away for a day to be questioned but that was a misunderstanding of something said by Mr Leslie Hood. JM asked for the cream which he had for treating a skin condition from which he suffered. He was not allowed to keep the cream but one of the visitors took it for him.

6.44 Thereafter the social workers took the children to the car outside. Mrs M hugged both the boys and told them to act with dignity and remember who they were. Mr M remained in the porch talking to one of the police officers. The visit had not lasted long. The parents had had no sufficient opportunity to comfort or reassure their children or to give any explanation to them. What distressed Mr M was not so much the timing of the removal but the manner of it. JM remembered being escorted by Ms Fran Connor who he recalled as 'a tiny lady, quite nice to me but not mum'. The social workers then drove off with the two children to St Colm's. On the way JM noticed cars outside the B's house and asked if the B children were being taken as well. Mr Sandy Fraser alone of the social workers remained behind. He asked Mrs M about medical and dietary problems. It was ascertained that JM suffered from dermatitis and had some cream for his condition which had been taken with him. Mrs M said that there were no other medical problems than that. Mr Sandy Fraser's professionalism and care impressed Mr and Mrs M and Mrs M was able to explain something of the family background to him.

6.45 Mr Sandy Fraser left the house to phone to Paul Lee. While outside he was approached by Councillor Annal who had been alerted at about 7.45am by Mrs Oakes that Mr McKenzie was in some difficulty and that the police had visited the T family. Councillor Annal had driven to St Margaret's Hope and then thinking that there was some activity going forward connected with the W family and knowing that there was some connection between the M family and the W family drove to the M's house to see if anything was happening. He arrived there at about 8.15am. He saw Mr Sandy Fraser and asked who he was. Mr Fraser was taken aback and did not answer his question but told him that Mr and Mrs M were in their house. Councillor Annal commented in effect that this was a different matter from the matter of the W family. He had a brief conversation with Mr M and then left to telephone to the Orcadian and to the Press and Journal. He had not at that stage consulted with the Social Work Department or the police but thought that the matter should be made public as he had the impression that a mistake had been made. It never occurred to him to speak to Councillor Mrs Trickett. Mr

Fraser had to wait for a while as there was no car immediately available to take him back to Kirkwall. Mr Charlie Fraser drove from Kirkwall to the M's house. It was in his mind that he would pick up Mr Fraser. He arrived at the M's house and came to the door of the conservatory. Mrs M spoke briefly to him and thereupon he turned and walked away. He did not locate Mr Fraser and took the view that the latter had already obtained a lift and accordingly he drove back again to Kirkwall.

6.46 After the children had been removed the police searched the M's house and then took Mr and Mrs M to Stromness to be interviewed. Mr M was able to attend to his animals before they left. Mr and Mrs M returned home later in that day about 4 or 5 pm. Mrs M heard that the B children had been removed and so she called on Mrs B and tried to piece together the allegations which had been made. Neighbours called on Mr and Mrs M in the evening to see how they were. There was no communication from the Social Work Department until some time later they received a letter from Mr Lee.

(B) THE SAFE HOUSE

6.47 The accommodation at St Colm's comprised a living room, kitchen, two bedrooms and a bathroom. There was furniture only in the livingroom and the kitchen. St Colm's was used as a day centre for the physically handicapped. The building used on 27th February was a bungalow occasionally used for staff accommodation. Ms Rachel Adam and Mr Martin George were waiting for the party to arrive. Shortly after 8am SM and JM arrived with Ms Fran Connor and the female constable. The group used only the livingroom, the kitchen and the bathroom.

6.48 After the children arrived at the bungalow they were given something to eat. Mr Martin George went out to buy some further supplies of food which SM wanted. After his return he helped in trying to make the boys comfortable. He had received general instructions from Miss Ann Donnan on the Thursday before and had been told on 26th February to attend at Camoran at 7am with a view to working either at St Colm's or at the Kirkwall Grammar School Hostel. While he was mentally prepared he felt as if he was working in the dark. He was asked to note anything of significance and simply relied on his professional judgement to identify what might be of importance. While he had worked in the past with abused children and with disturbed children he had not undertaken work quite like this before.

6.49 The social workers and Constable Miller explained to the children that JM was going to foster carers in Inverness and that SM would be going to Glasgow. It was explained that they might have been hurt and that their parents might have had something to do with it. It was said that the placements would be for up to seven days at that time and that a Children's Hearing would be held. The children asked no questions and did not protest or complain. JM in particular was quiet and withdrawn. He tended to look to SM for guidance. The explanations were all given to the children together in the livingroom. Ms Fran Connor said in evidence that she had not been given any instructions about separating them for that purpose. SM dismissed the idea that he might have been hurt. His concern was that his education could be continued. He displayed none of the anger or aggression which might have been expected from a boy of his age. He did not recall being given a reason for the removal beyond his mother's reference to the allegation that the parents had been sexually abusing them and his understanding at his medical examination that evidence of sexual abuse was being sought.

6.50 There was little communication between SM and JM. SM watched television, talked with the social workers and joined in a card game. JM drew a picture which he kept with him on the journey. He then played a game with Ms Fran Connor. At about 10.30am they set off for the airport but had to return to St Colm's. Ms Connor apologised to the two children and SM said it was fine with him as he was not in a hurry to leave Orkney. She then started to make some sandwiches and JM came in to help her. He became more relaxed and they talked together. Ms Connor collected a list of likes and dislikes to be passed to his foster carers. She did this primarily to put him at his ease. In due course they left again for the airport. At the stage when they were about to leave SM was for a short

time visibly distressed but when they left he was able to retain his control. Both boys were polite and courteous and generally displayed a substantial degree of control and self-confidence.

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6.51 After arriving at the airport the two children boarded the plane. JM was shocked and distressed to find his friends, especially BT and SB, there. He said that he thought this would have happened to the B children but not to himself. He started talking of his family and asked about his foster carers, his schooling and whether SB would be near him. Ms Connor could not answer his questions but tried to allay his fears. He enjoyed the flight and talked of his home, their farm and the animals, saying he took little interest in the farm. He played games with Ms Connor on the flight. Ms Connor noticed his reference to animals and a later reference to dogs as she had been instructed to record any such references. At one stage on the journey while JM was sitting in the plane behind Ms Fran Connor, her eyes filled with tears at his distress, but she recovered herself quickly and turned and comforted him. Mr Leslie Hood and Ms Connor later told Mr Sandy Fraser that they had found the plane journey 'horrendous'.

6.52 When the plane arrived at Inverness JM became tearful and sad at parting with SM. They hugged each other and exchanged hand clasps reflecting the bond which existed between them. Mr Jack Goodfellow met JM and Ms Fran Connor and drove them by minibus to Ferintosh. Mr Goodfellow was the principal of the children's centre at Ferintosh and also had responsibilities for other children's centres and for the children's resource staff in the northern part of the Region. JM was in tears at the outset but became composed and talked to Ms Fran Connor about dogs. SM went on to Glasgow. SM felt it was not fair that he was separated from his brother but considered that JM was more upset at the separation than he was himself.

6.53 At Ferintosh Mr Jack Goodfellow told the children where they would be placed. It was a small room and while he told the children individually it would not be difficult for the children to hear where the others were going. Ms Connor found a separate room for JM and told him more about his placement and that it was on a farm. It was also ascertained that his foster carer was out and that they would have to wait for about two hours. He and Ms Connor then rejoined the other children and Ms Connor again obtained from him further details of his likes and dislikes. The other children were also discussing their likes and dislikes. The T children said that they liked classical music and JM shouted over that BT also liked AC/DC. He asked if there was a quarry on the farm he was going to. Ms Connor asked what he meant and he said that there was one on his farm. Constable Linda Williamson asked whether his quarry was one where he swam and said that quarries in Inverness were different. JM agreed that he swam about in it and indicated the depth of water. Constable Susan MacLaren was introduced to JM as she was to be present for his medical examination.

6.54 As the other children left JM said goodbye to them and then watched a video called Good Morning Vietnam. This was a PG film and so far as Ms Connor was aware it did not involve any violence. Then at about 4.30pm he went with Mr Jack Goodfellow who had stayed with him and Ms Connor to his foster carers' home. The foster carer spoke at a high speed and did not seem to draw breath. JM was told that life was very busy and it was the lambing season. He was told that he would have to go to church on Sunday as there was no-one to look after him but he could wait in a separate room. It was ascertained that there were two other foster children there. Ms Connor asked to see his room and learned that he would be sharing with a fourteen or fifteen year old foster boy. She also understood that JM might have to share a double bed with him when the foster carers' older children visited home. Ms Connor felt some concern at the accommodation and sought to have that concern relayed to Orkney Islands Council through Mr Sandy Fraser. The foster carer did not hear any complaint about the matter until after the Public Inquiry started. The contingency did not in any event arise.

6.55 JM was sad, tearful and nervous. He seemed to his foster carer to be a very sad, bewildered little boy who did not seem to know what was happening. Ms

Connor sought to comfort him and promised to phone later that night and visit the next day. She told the foster carer about his dermatitis and told JM that a doctor would be examining him. She then left, having been with him in the house for about an hour. The foster mother had to leave for a meeting which had been arranged earlier for foster carers. While she was out the foster father found JM crying and he comforted him. Ms Connor phoned him that evening and learned from the foster father that JM had been upset and tearful but had settled better than some children. She spoke to JM who said that he was very sad and asked if he could write to his mother. Ms Connor said that she would ask about that and told him that she had spoken to Mr Sandy Fraser about obtaining a family photograph for which he had asked earlier.

V. The Removal of the T Children

(A) THE T FAMILY HOME **6.56** Mr and Mrs T had come to Orkney in 1988. They were Jewish and had lived in Israel until 1984 and thereafter spent some years abroad before moving to Norfolk in 1988. Later that year they bought a house in South Ronaldsay. They had two children, BT, born in December 1978, and MT, born in November 1982. Their house was on three floors with the bedrooms on the upper two floors. There was an annex to the rear of the house which was joined to the house but with no internal access. Access was obtained from the rear in the open air. It was used as a workshop by Mr T who was skilled in a variety of artistic work including silver work and the design and manufacture of jewellery.

6.57 The team who were to arrive at the house of Mr and Mrs T comprised Mrs Mary Finn, Ms Rena McCarry, Constable Williamson and four other police officers, Sergeant Gilbert, D.C. Mackay, Constable Mackay, and Constable Malcolm Raeburn. Sergeant Gilbert knocked at the door. Mr and Mrs T were asleep. They usually rose at 7.15am. They were awakened by the knocking. Mr T got up and looked out of the window. He saw a man in the street who told him that he was a policeman and he wanted to come in. Mrs T put on her dressing-gown, went downstairs and opened the door. Sergeant Gilbert introduced himself, was invited inside and explained that the police had a search warrant and were investigating lewd and libidinous practices. He briefly showed her an identification card which she was unable fully to read. The other police and social workers then came in.

6.58 The team entered the livingroom which was on the ground floor. Mrs Mary Finn showed her identification and explained that they had Place of Safety Orders on BT and MT. It was explained that there were suspicions that children had been sexually abused. Mrs T was distressed and indignant at the indication of any involvement by her family. Mr T came downstairs and heard what was happening. His evident anger and agitation prompted some restraint in the belief that he was about to be violent but that belief was mistaken. He went to the bathroom preceded by Constable Raeburn with his mind in a turmoil. He took a toy out of a chest of drawers there but dropped it before he came out. In response to Sergeant Gilbert's reference to sexual abuse Mrs T asked who was doing it. Sergeant Gilbert said that her name was on the warrant and the investigation would be concerned with her involvement. Mrs T said to her husband 'they are now accusing me of child abuse'.

6.59 Mrs Mary Finn explained that the children would be taken into care for seven days under Place of Safety Orders which had been granted and that the parents would be informed of a hearing to be held the following week. Mr T was shown a copy of the Order but was not allowed to take a copy in his hands or to keep it. He did not have his glasses on and was unable to read it. Mrs T did not see the Orders. Mr T would have liked to have been left with a copy of the Orders, to see a summary of the reasons given by the person who signed it, an indication of where he could apply for help and advice, and a statement of his rights and obligations. Mrs Finn asked for permission to have the children medically examined and Mr T then said he would like to phone Dr Broadhurst immediately. He wanted to have the children examined by their own doctor before they passed

into the hands of others. It was then explained that the medical examinations would require to be done outside Orkney by a police surgeon. No consent was forthcoming from Mr or Mrs T. If asked Mrs T would have consented to having the children seen by a child psychiatrist.

6.60 Mrs T then went upstairs to see that the children were woken up and dressed. Ms Rena McCarry and Constable Linda Williamson accompanied Mrs T to a bedroom which both children were sharing. BT had been wakened by the knocking at the door, had heard his father go down and heard him shouting. He then woke MT and she heard the shouting downstairs. Mrs T expressed incredulity at the suggestion that her children had been abused. Mrs Mary Finn followed the others upstairs. BT was lying on his bed, weeping. He had heard what had happened and said that it would be like the case of the W children and he would never see his mother again. Mrs T sought to comfort him. She suggested that she might go with the social workers and let the children stay at home. It was explained that that was not possible. Mrs T took him to his own bedroom next door which was currently being decorated. She took out his clothes from his chest of drawers and he dressed. She sought to comfort him. MT seemed quite calm. She was very white and still. She neither wept nor spoke. Mrs Mary Finn sat beside her, introduced herself and asked her to get dressed. She dressed and went downstairs. She clung to her father and cried. He hugged her and she then went off at his request to find a hairbrush. He started to brush her hair and Mrs T then took over and brushed and plaited her hair. Both children were distressed but expressed it in different ways.

6.61 Mrs T asked her husband in Hebrew whether he had some small things to give to the children. Mr T and BT and MT went out of the house to the workshop and the children chose pendants from Mr T's stock, one with the design of a dolphin for BT, and the other of a seal for MT, both made by Mr T. Mrs T wanted the children to have something small to take with them and the children were wearing the pendants when they eventually returned. The telephone rang while Mr T was in the workshop and he answered it. The caller was Mrs Oakes and Mr T told her that the children were being taken away. One of the police officers however intervened and the call was discontinued. The children each took a washbag and MT took a velvet hat to which she was attached. Mrs Mary Finn allowed them to take these articles because she felt that it would be distressing not to allow them and because she did not wish to inflame the situation.

6.62 It was understood from the parents that the children were vegetarian. Mr T was going on to explain that the children were Jewish but was interrupted by Mrs Finn who assured him that they knew very well how to look after the children. No details about the family or the children were noted down nor were any forms completed containing such details. Mr T received the impression that she regarded the children as standard stereotypes and not as individuals and she was trying to affirm her own competence. The children were refused breakfast by Mrs Finn and were not allowed to take any books or teddy-bears but she treated the children very gently and very kindly. The children went out to the car. BT was crying. MT was not crying. Both were totally confused. They were then driven away.

6.63 The children left at about 7.30am and the police remained to search the house. The worst aspect which MT could remember was leaving the house. She felt that she was beyond tears. Mrs T came on MT's glasses and told Sergeant Gilbert that MT needed them for reading. He told her that she would have to take them to the Social Work Department later and she put them in her pocket. The search finished at about 11am. Mrs Oakes telephoned and gave Mrs T a list of people whom she could contact. The police then took Mr and Mrs T to Kirkwall to be interviewed. After that they met Dr Broadhurst. Mrs T was in a highly distressed condition and with Dr Broadhurst Mr and Mrs T went to the Social Work Department to deliver MT's glasses.

(B) THE SAFE HOUSE **6.64** The party with the T children drove to the hostel at Kirkwall Grammar School and went to one of the staff flats there. The flat was a two-roomed flat which was vacant on the second floor of the hostel. The building was separate from the school. Mr Michael Thorpe was there to meet them. He had gone to

Camoran that morning at 7.30am and he had been told to go to the hostel at the Kirkwall Grammar School. He had gone there with Mrs Michelle Miller. He took some toys and books to amuse the children. He and Mrs Miller also ensured that there was a supply of things for the children to eat and drink. When the children arrived Mrs Finn introduced him to MT and BT. Mr Thorpe had been instructed to write down anything which the children said and did so.

6.65 The children were separated after breakfast so that the social workers could explain to each separately what was happening. Mrs Finn told MT that they were to look after her while the police talked to her mother and father, that the police would not hurt her parents, that it was not MT's fault that this was happening, that the police thought that things had happened and that the children may have been hurt. She explained that they were going on a plane to Inverness and that MT would be taken to people who would look after her. MT listened carefully but made no response. At the hostel MT took off the pendant which her father had given her and put it in her pocket but later put it on again.

6.66 Ms Rena McCarry explained to BT that the police had to ask his parents questions, that there were concerns about them, that they might have been hurt, that they would be taken to a safe place until the questions were answered, and he and MT would be looked after by a family. BT asked if all the children of the people who had supported the W family would be taken away. He was adamant that his parents had done nothing wrong and that they had not hurt him or his sister. He became distressed. Both the children were given to understand that they were only being taken away for seven days. BT only realised that he was leaving Orkney when he arrived at the airport. Constable Williamson rang Mrs Susan Millar to tell her that the children were vegetarian so that the foster carers would not give them unsuitable food that evening.

6.67 Both children talked of their likes and dislikes. After a period they set off for the airport. BT was agitated and distressed. However they had to return to the hostel as the plane was delayed. The children were occupied with puzzle games. BT watched the television and both of them talked with the social workers. BT remained tense and tearful.

(C) THE JOURNEY TO THE
PLACEMENTS

6.68 At about 11 o'clock they left for the second time for the airport. BT was in considerable distress on the journey and required much support. He was physically debilitated and the walk to the aeroplane was described by Ms McCarry as awful. He broke down completely when the plane took off. He was distressed at leaving the island and being separated from his parents and from his sister. He was totally exhausted when they reached Inverness. The degree of his distress seemed to Ms McCarry quite unusual. It remained at a high level nearly all day and was very different from the controlled behaviour of his sister. Ms McCarry thought that his distress could have been alleviated if he had been with his sister and if she herself could have told him where he was going.

6.69 At Inverness they were taken to Ferintosh and from there to their foster carers. At Ferintosh lists were made of what they liked to eat and to do. They were accompanied to the foster carers' homes by Ms McCarry and Mrs Finn. As BT was anxious at being separated from MT they all went to the house where MT was to stay first and then took BT to his foster home. MT told BT that she would be alright. She gave no sign of emotion when he left and did not kiss him goodbye. MT's foster mother was looking after three young children during the day and a fourth who was at school all day. Mrs Finn was concerned about her availability for MT's care and spoke to Mrs Liz MacLean and Mrs Susan Millar about that later. Ms McCarry thought that the home presented a culture shock for MT. She thought it a chaotic household and that the three infants would have been outwith MT's experience. Ms McCarry planned to return the next day to see BT and to explain about the medical examination.

6.70 BT again broke down when he left his sister and remained distressed during the journey to his foster carers. Ms McCarry introduced him to his foster carers. She understood that they had not had a foster child before. Ms McCarry explained what was expected of them. She believed that they had not been adequately prepared and informed about BT. But she had no criticism of their care and concern

for him and was not surprised that Mrs T later wrote expressing her gratitude to them. The foster carers had been expecting a fairly big, aggressive lad, and were surprised to find him in tears on his arrival. They sat him down and gave him tea and cakes. They introduced him to their pet cats and to some workmen who were in the house and he began to relax. Ms McCarry had told BT that she would phone him later in the evening. She did so and found him more settled. She told him that she would visit him the next day with Constable Linda Williamson.

VI. The Final Stages

- (A) THE SEARCH OF THE MANSE **6.71** Sergeant Sutherland and others visited the Manse where the Reverend and Mrs McKenzie lived. The police searched the house and removed a number of articles which were made available for the Reporter. These included a black cloak which had circular clasps depicting a lion's head. There was no evidence of a zip on it. It was hanging openly on a peg in the vestry. Mr McKenzie explained that he used it for funerals. The police also found a rubber hot-water bottle on which was written BW's name and the words 'the big boy'. It was found in the Minister's bed. They also found a Brownie Uniform, a broken cross, a swimming costume, some animal masks, for all of which explanations were given. The police found some animals in the house and commented on some excrement left by them. Mrs McKenzie explained that the animals had been ill. The police searched for a hook or a crook but failed to find one.
- 6.72** The Reverend Mr McKenzie told Sergeant Sutherland that he was not in good health and that he was suffering from angina. Sergeant Sutherland suggested that he should phone his doctor who was Dr Broadhurst. Dr Broadhurst arrived and gave him a mouth spray and assured him that he would be alright. Mr McKenzie was later driven to the police station. A press reporter and a photographer had arrived at the Manse before they departed, and two solicitors arrived at about 9.40am.
- (B) THE FIRST MEDICAL REPORTS **6.73** In the evening of the 27th February Mr Philip Greene informed the Social Work Department by telephone that no positive evidence of abuse had been found at the medical examinations of the children who had been examined at Yorkhill. Mr Lee did not however review the position of the Place of Safety Orders as he understood that sexual abuse might not always be indicated on medical examination. In cases of recent penetrative sexual abuse it is more likely than not that medical evidence will be found.
- 6.74** The possibility of the discovery of physical evidence of sexual abuse on a child depends on a variety of considerations, including the timing and duration of the abuse, the precise form of the abuse, and the sex and age of the child. Statistical information has been collected to illustrate the point and it has been recorded in a Report of the Royal College of Physicians on Physical Signs of Sexual Abuse in Children, published in April 1991, that in one particular survey out of eighteen cases of admitted vaginal penetration of girls between five and eleven only four had no physical signs, the examination being held within less than a week of the abusive incident in three or four cases. As Dr Shepherd explained a single penetrative incident may not show any signs, chronic penetrative abuse is more likely to show signs and acts not involving penetration, such as simulated intercourse, will probably not leave clinical signs. Dr MacDonald's view was that if out of the nine children no evidence of penetrative sexual abuse was found one would tend to say that no abuse of that kind had taken place. On the other hand he could not affirm that an absence of signs excluded the possibility that abuse had occurred. In his view healing after such abuse can occur rapidly.
- (C) TELEPHONE CALLS **6.75** In the evening of 27th February concern was expressed among the social workers in Inverness about the placement of MT. Mrs Mary Finn telephoned to Orkney between 4 and 5pm. She was unable immediately to contact Mrs Susan Millar but spoke to Mrs Liz MacLean. She explained to her her concern about MT's foster carer who had appeared to her to have considerable child minding commitments. She also expressed some concern about the matter of access

between the siblings. In the course of conversation about the day's events Mrs Finn mentioned that on the journey Ms Connor had for a moment become distressed but had regained her composure. According to Mrs MacLean, Mrs Mary Finn sought assistance for Ms Connor because of her distress but a call was made later that evening stating that Ms Connor was better.

6.76 Later that evening at about 7 o'clock Mrs Susan Millar phoned back to Inverness and spoke to Mrs Mary Finn. She gave her to understand that she should tell the social workers from Strathclyde and Central Regions that they were not to visit the children the following day. Mrs Finn believed that Mrs Millar was angry because she believed the workers were becoming emotionally involved and were spending too long with the children. Mrs Millar on the other hand said that she had not intended that what she said was to be taken as an instruction not to visit the children but she had simply wanted to express her concern that any worry which the workers had would spread to the children if they visited them the next day. She accepted that she might have been loose in her expression.

6.77 Mrs Mary Finn passed the instruction as she understood it to Mrs Julie Lee, Ms Connor, Mrs Buchanan and Ms McCarry. Mrs Finn also told Ms McCarry of the negative result of the medical examinations at Yorkhill. The social workers were unhappy with the instruction. Ms Connor felt that it went against usual practice and she expressed her concern. She did not know the reason for the instruction and could not believe that it was due to her momentary distress on the journey. The social workers felt that it was not in the best interests of the children particularly when they had promised the children that they would return.

6.78 That same evening Ms McCarry telephoned to Mr Sandy Fraser to tell him that Mrs Finn had instructed her that no follow up visits were to be made. Contact was then made with Mrs Susan Millar who asked Mr Sandy Fraser and Mr Murphy to resolve the position with the workers and secure that they were able to visit the children without transmitting any anxiety to them. Following on that Mr Murphy phoned Mrs Finn to tell her that he had spoken with Mr Fraser and Mrs Susan Millar and that the original plan for the return visits was to be maintained. She said that she would let everyone know. Mr Fraser also phoned Ms Rena McCarry and confirmed that the visits were to go ahead on the morning of 28th February. The follow-up visits accordingly took place on the following day but by then further confusions had arisen.

(D) MRS MACLEAN AT THE
COMMODORE

6.79 On the evening of 27th February Mr Sandy Fraser, Mr Rab Murphy and Mr Sam McTaggart were dining together at the Commodore Hotel when they were joined by Mrs Liz MacLean. Mrs MacLean told them that she was proceeding with interviewing all the children placed in the Highland Region. Mr Fraser and Mr Murphy suggested that the Strathclyde workers might help her at least by transporting the children to her and introducing them to her. They also suggested that the workers could usefully meet Mrs MacLean and tell her of their experience of the state and behaviour of the children. Mrs MacLean was not happy with the proposal that she would make a joint visit with the social workers to the children in the afternoon of 28th February but she was agreeable to a meeting with the workers in Inverness. She required first to ring Mrs Susan Millar and agreed that the meeting could go ahead if she approved. Mr Fraser believed that she would follow up the suggestion and he phoned the workers in Inverness to tell them of the proposed course and that Mrs MacLean would meet them at 8pm on 28th February.

6.80 Thereafter Mrs MacLean telephoned to Mrs Susan Millar from the Commodore Hotel saying, as Mrs Millar understood it, that Mr Murphy and Mr Fraser had been putting pressure on her to give information to the mainland workers with a view to doing support and assessment work. Mrs MacLean said that the matter had arisen while they were drinking over dinner and Mrs Millar waited to see if it was simply idle talk or whether Mr Fraser and Mr Murphy would ring her. Mrs MacLean understood that Mrs Millar was advising her against the suggestion that she should see the Strathclyde workers and learn of their experiences with the children on the grounds that the Social Work Department should

receive all information first and that any information should be circulated to her after the debriefing. Mrs MacLean went to Inverness the following morning.

6.81 After visiting MT and BT on 28th February Ms McCarry met Mrs Liz MacLean in Dingwall by accident. Some mention was made of Mrs MacLean visiting the workers that evening but in the event she did not arrive and the meeting which had been proposed did not proceed. Indeed Mrs Susan Millar informed Mr Murphy and Mr Sandy Fraser on the afternoon of 28th February that it had been cancelled.

(E) A MISUNDERSTANDING

6.82 On the evening of the 27th in the course of conversation among the mainland workers and Constable Susan MacLaren in Inverness mention was made of the load of work which would be falling on Mrs MacLean in the interviewing of the nine children. Constable Williamson was brought into the discussion. Mrs Norma Buchanan and Ms Rena McCarry said that the mainland workers could have no part in any interview work. Following that conversation Constable MacLaren expressed concern to Sergeant Hanson on 28th February at the amount of work which Mrs MacLean was to do. At some stage the suggestion was made that the work should be shared among others including the mainland workers. This suggestion was made without the approval of the mainland workers. The mainland workers had not done and had no intention of doing any interview work.

6.83 The initiative taken by Constable Susan MacLaren led to a message being passed to the Social Work Department in Orkney in terms which led to a serious misunderstanding on the part of Mrs Susan Millar and Mr Paul Lee. The willingness of the mainland social workers to undertake interview work had been a matter of discussion on 21st February. Their desire for further information on 26th February had added to a suspicion on Mrs Millar's part that they were intent on doing such work. Furthermore Mr Lee understood that a great length of time had been spent on their return visits which he thought was not what had been agreed. The message received by the Social Work Department on 28th February may have become confused. However it was phrased it quickly led the management of the Social Work Department to imagine that their fears had been justified and they readily accepted that the mainland workers had started to undertake disclosure work. But the Strathclyde workers had all along accepted that as was agreed on 21st February their duties were limited to reception into care.

6.84 Mr Rab Murphy and Mr Sandy Fraser came to the Social Work Department's Offices at 11 o'clock on 28th February for a meeting which had been arranged with Mr Lee and Mrs Susan Millar. However, they were kept waiting until 12.15 and then asked to return at 1pm. At 1.20pm Mr Lee and Mrs Millar arrived. Mr Lee then told them that the Strathclyde workers had been in touch with the police to negotiate resources for initiating disclosure work with the children. Mr Lee was angry and annoyed at what he had heard. This was the first that Mr Murphy or Mr Fraser had heard of the suggestion, although it appeared that the Social Work Department had heard of it some two hours earlier. They denied the suggestion and refused to accept it. Mr Lee said that phone messages had been sent to the foster carers requesting them to tell the mainland workers to leave because he believed that the mainland workers were trying to instigate disclosure work but had been stopped by Mrs MacLean. It was understood that Mrs MacLean had telephoned Mr Lee and confirmed that the mainland workers had instigated disclosure work. Thereafter Mr Murphy had a meeting with Mr Lee and Mrs Millar and agreed the form for a debriefing meeting. It was at this stage that Mrs Susan Millar said that the meeting proposed between Mrs MacLean and the mainland workers was cancelled.

6.85 After this exchange Mr Murphy and Mr Fraser discussed with Mr Sam McTaggart the difficulties of co-ordination between themselves and between the Orkney officials and the RSSPCC. Mr Murphy suggested that it would be useful to identify the problems and a list of matters was recorded in writing. The list included reference to their not having been involved in the planning stages, the lack of structures for reception into care and a number of particular matters such as the separation of siblings, the prohibition on personal possessions, doubts about Mrs MacLean's practice and the lack of information given to them.

6.86 Mr Murphy and Mr Fraser telephoned to the mainland workers. They were upset that anyone had thought that they would breach the instruction not to take part in disclosure work. Eventually it was discovered that there had been a misunderstanding on the part of the Social Work Department and that no disclosure work was being done or was intended to be done by the mainland workers. When the true position was realised Mr Lee told Mr Murphy that he was glad and Mr Murphy suggested that he should say that to the social workers.

(F) THE FOLLOW UP VISITS

6.87 The uncertainty about the carrying out of the return visits to the children on the 28th February having been as it was thought resolved the social workers returned to the placements in the Highland Region to visit the children as they had planned. On 28th February Ms Rena McCarry and Constable Linda Williamson visited MT and found her controlled and self-contained. She seemed happy. She showed Constable Williamson her room and spoke about the other people in the house. Constable Williamson arranged to return in the afternoon in order to take her to Inverness to meet Mrs MacLean to see the place where she would be medically examined. She and Mrs MacLean later took her to visit Dalneigh and gave her an ice-lolly on the way back. They also visited BT, who was still sad and upset. They explained that Mrs MacLean would be coming to see him and then said good-bye to him. While Mrs McCarry was at BT's foster home two telephone calls were received. The first was from Mrs MacLean to arrange the time to pick up MT. The second was from Mrs Susan Millar who spoke to Constable Williamson and asked that Ms McCarry should not linger as Mrs Millar believed that the Strathclyde workers were going to try to interview the children. However by the time the message could be passed to Ms McCarry the visit had substantially concluded. Constable Williamson later met Mrs MacLean at 1 o'clock and they took MT to Dalneigh to show her the premises.

6.88 Ms Fran Connor visited JM with Constable MacLaren on 28th February. She phoned in advance to the foster home and learnt that he had slept well and had been out for a walk. JM proudly showed them some drawings. Ms Connor told him that she would not see him again but that Constable MacLaren and Mrs MacLean would be seeing him to help him with the worries he had. He indicated that he had none. JM had started to talk to the other foster boy at the house and was responding to his foster carer. Ms Connor said good-bye to him and wished him well. During the visit a phone call was received by Constable MacLaren from Constable Williamson regarding the availability of the car which they were using. A call was also received by Constable MacLaren from Mrs Susan Millar to confirm that everything was alright. Mrs Millar wanted to be sure that Ms Connor was not upset.

6.89 On the morning of the same day Mrs Norma Buchanan telephoned the foster carers of TH and those of PH. She learnt that PH had been a little upset at bedtime and had taken time to settle to sleep, and so he had been allowed to watch the television. The foster carers had had some reservations about it as the film was a thriller but he had not been upset or frightened by it. He had enjoyed shopping for clothes with his foster mother. TH had slept well, had been a little upset in the morning without PH but had become happier. Mrs Buchanan visited PH and talked with him. He asked whether she knew when he would be returning home and she said she did not yet know what the plans were but that he would be told as soon as possible. They spoke of the school which he would be attending and Mrs Buchanan told him that Mrs MacLean would be coming to talk with him and that Constable Susan MacLaren would be taking him to see a doctor. There was further conversation with the foster mother and Mrs Buchanan then left. PH said good-bye to her quite happily.

6.90 Mrs Buchanan visited TH who seemed to be at ease with her foster mother. She told her that Mrs MacLean would be coming to talk to her and that a doctor would be examining her. TH was quiet but smiling and seemed happy that the visit was fairly brief, although she had been keen that Mrs Buchanan should make it.

6.91 In Strathclyde Region Miss Lindsey Stevenson and Mr Leslie Hood visited the two foster homes of the B children. They went first to W and EB's foster carer.

They saw the girls and asked how they were to which they replied 'fine' in unison. They talked about possible horse-riding and then spent some time discussing the role of the workers at Strathaven. They stayed for about half an hour. They tried to explain that they were seeking to provide a place where the children could speak about any troubles they had. They would inform the foster carer about anything relating to the behaviour or demeanour of the children but not the content of the interviews. Miss Stevenson had no new information to give to the foster carer. They then went on to SB's foster home and saw SB. Miss Stevenson and Mr Hood asked if he was willing to come to Strathaven and talk to them there and he agreed. They explained to him why he had been taken away from Orkney. They then sat down with his foster carer and Ms Jackie Wallace who was the link worker for the foster carer. They discussed a number of matters and went over what would happen when SB went for interviews at Strathaven. They gave a similar explanation to that which had been given to W and EB's foster carer. The girls' foster carer however had been the more anxious about the amount of information which she had.

6.92 On 28th February Mr Lee spoke to Mr Gilmour on the telephone. He told Mr Gilmour that he did not want the Strathclyde staff to be involved in disclosure work. Mr Gilmour then told him that it had been agreed that the staff would return to the foster carers to see the children. It was then agreed that the staff had completed their work. Mr Gilmour expressed concern about Mr Lee's comments on the staff, to which Mr Lee said that his concern was only about the disclosure work and that the staff had behaved properly. Mr Gilmour found the closing compliment incompatible with the opening criticism but Mr Lee's reference to disclosure work had been intended to refer to the follow-up visits by the social workers. On 12th March Mr Gilmour wrote to Mr Lee to say that he would be unable to take action on the request made on 14th February for further staff unless Mr Lee made a further request. Mr Lee did not see it as necessary to reply as he did not intend to pursue the matter. Formal approval for the provision of the staff to help in the uplift was duly obtained in Strathclyde and copies forwarded to Mr Lee.

(G) THE DEBRIEFING MEETING

6.93 The Orkney based workers returned to Orkney on 28th February and the mainland workers returned on 1st March. On 1st March at around midday a debriefing meeting was held at the Social Work Department. All the Orkney social workers, the mainland workers, Mr Sam McTaggart, Mr Sandy Fraser and Mr Rab Murphy attended. Mr Lee came for a short period and thanked the workers for the assistance which they had given. The teams which had operated on the 27th met in separate groups. Written accounts of their individual experiences had been made by the participants and these were given to Mrs Susan Millar to study and collate. She did not have much time to absorb them but thought that she had learnt more about the families from them. They were thereafter made available for the acting Reporter. Mrs MacLean who was not at the meeting had said that she might want the information later but not at that stage.

6.94 After the group discussions everyone assembled together and each team leader presented a brief account of the points raised in their respective group. The question of the level of information provided was raised and Mrs Millar explained that the consideration had been the fear of contamination by the possibility of the social workers putting words into the mouths of the children, an explanation which had not been given to the mainland workers before. She noted that the reason for not sharing the information with the mainland workers should have been more clearly stated. It was also suggested that information had been given to them piecemeal. Some of the mainland workers came to understand at the meeting the reason why the children had not been allowed to take personal possessions. A suggestion was made that if more staff had been available more support could have been given to the parents. It was also suggested that opportunities had been missed for engaging with the children, to which Mrs Millar commented that the point was understandable but inappropriate as the interview work was to be done solely by the RSSPCC and the police.

6.95 Some of the comments of the Strathclyde workers at this time were recorded in somewhat exaggerated terms. They sought to record the concern which some of them felt at what they saw as incorrect information on the time when schools started in Orkney and on the additional information which they had understood the police possessed. Mrs Hughes felt that the Orkney management had been affected by the pressure under which they had been working. She felt that Mr Leslie Hood of the RSSPCC had lacked confidence and experience for the work required of him and that Mrs Liz MacLean was content to work closely with Mrs Susan Millar in the knowledge that her own work would not be challenged. The Strathclyde workers did not voice all their views at the meeting but reserved their strongest criticisms for a debriefing meeting of their own to be held in Strathclyde.

6.96 The meeting was used more for the purpose of gathering information and reviewing the past events than presenting criticism of the removal. Some of the social workers had found the experience harrowing. The grounds of the Place of Safety Orders were gone over by Mrs Millar and the general view was that the working relationships had operated to support the children and that there had been good collaboration between the agencies. There was not much time available for discussion. An indication was given that little evidence had been found by the police in support of the allegations made by the W children. No charges or arrests had been made but the investigations were continuing. It was also disclosed that nothing untoward had been discovered out of the medical examinations of the nine children. Those present at the meeting had a sense of relief at the conclusion of the operation but also an anticipation of trouble lying in wait. After the meeting was concluded the mainland workers departed to return by air to their own regions. On the evening before the operation took place they had feared the event of considerable public concern. As they journeyed south the storm of protest which they had anticipated had already broken.

(H) THE STRATHCLYDE
DEBRIEFING

6.97 On 4th March the social workers from Strathclyde met to have a debriefing of their own. Mr Ian Gilmour instructed a list be drawn up of their concerns and Mr Philip Greene was given the responsibility of preparing it. The purpose was to prepare a report for the Depute Director and also to enable some discussion with Orkney Social Work Department. The workers were also conscious that there might be an Inquiry into the operation. Mr Gilmour was in attendance at the meeting and he wished the group's concerns to be analysed with a view to having them passed to and discussed with Mr Lee. A list of Points of Concern was then prepared by Mr Greene setting out his formulation of the views of those who had travelled to Orkney.

6.98 Mr Greene's list was framed in terms that were strongly critical of a variety of aspects of the operation in Orkney. The paper was later issued in draft but was not regarded as reflecting the discussion on 4th March. Further points were added to it and the expectation was that it would be further discussed. The document however, remained among the Strathclyde papers and was produced for the Public Inquiry. However when the points were raised with the Strathclyde workers at the Inquiry one after another of the points were found to be overstated or unsupportable. The list overstated the concern which the Strathclyde workers had felt and when questioned at the Inquiry about them several of the alleged concerns were immediately agreed to be unsupportable on examination. Indeed it was accepted by Mr Sandy Fraser that of the first eight, which dealt with the removal of the children, only one was accurate. The list had been prepared by Mr Greene but he was unable to account for the extent of the inaccuracy in it. He had understood that if there were errors in it then the group would reassemble and make a final edition. But nothing had been done for at least the next six weeks to discuss the points listed. Further points were added to it and at some later stage a version was passed to Mr Gilmour which Mr Greene was to amend but the list was never revised nor passed to Mr Gilmour and after the holding of the Public Inquiry was announced the matter was not pursued. Even if it was intended as Mr Fraser stated as the first stage of an ongoing discussion it could not be taken as a serious record of the considered opinions of the Strathclyde workers.

VII THE PROCEDURAL HISTORY

I. The Initial Work of the Acting Reporter

- (A) PREPARATION
- 7.1** On the afternoon of 27th February 1991 copies of the Place of Safety Orders were passed to Mr Sloan and Mr Jackson at the Reporter's Office. At that time or over the next two days they received nine summary statements of interviews with some of the W children. The nine interviews were: MW of 6th, 12th, 14th and 20th February, QW of 12th, 14th and 20th, and BW of 13th February and AW of 23rd February. A record of the interview with BW of 23rd February was not included. Mr Sloan and Mr Jackson then set about considering the information.
- 7.2** On the evening of 27th February Mr Sloan and Mr Jackson had a conversation with Mrs Liz MacLean at the Commodore Hotel. Mr Jackson checked with her that he had all the documentation. It was then found that a document was missing from those which had been passed to him. This was the record of the interview with BW of 23rd February in which mention had been made of members of the H family. She told him that BW had identified PH and his little sister and his father as going to the hole in the ground. She told him that BW did not know the father's name but had said that the father was over six feet tall and had made other personal observations about him. She was confident that BW had given such a description of Mr H although it was not recorded on the transcript. She also told him about the correspondence with the W children, including the mail which had been sent by Mrs T. Mr Jackson also noted that P's name appeared in a drawing and that he had been identified by QW.
- 7.3** Over the 27th and 28th February and 1st March Mr Sloan and Mr Jackson studied the individual summaries of the interviews with the W children. Where the information came to him from the RSSPCC and the Social Work Department Mr Sloan assumed it was credible and had been evaluated. He and Mr Jackson noted the similarities in the stories told by the W children and in the terminology used in respect of the hook and hooking. On analysing the material they considered there was sufficient evidence in respect of seven of the nine children but that there was insufficient material as it stood to warrant proceeding with the case so far as the two H children were concerned. At this stage no account appears to have been given of what Mrs MacLean had told Mr Jackson of the interview with BW on 23rd February. Mr Sloan informed the Social Work Department that if there was no further information to come the H children would be liberated. Mr Sloan concluded after studying the evidence that at least some of the children might be in need of compulsory measures of care and accordingly under Section 37(4) of the Act of 1968 he was obliged to arrange a hearing as soon as practicable. The intention was to make the final formulation of the grounds for referral on Monday 4th March. Contrary to his usual practice in Strathclyde Mr Sloan did not keep a written record of his work in Orkney over this period.
- 7.4** On 1st March at 11.30 am Mr Sloan and Mr Jackson visited the police station to see if there was anything significant in the productions held by the police. They were shown drawings which had been done at the time of the interviews with the W children and they had an opportunity to listen to the tapes of certain of the interviews. Sergeant Hanson gave them a summary of what Constable Williamson had said about them. The productions appeared to Mr Sloan and Mr Jackson to be inconclusive. It was hard to make out what was being said on the tape recording of the interview to which they listened. Mr Sloan and Mr Jackson understood that nothing of assistance had come from the interviews with the parents. One difficulty which occurred later was in the obtaining of access to the tape recordings of the interviews during the ongoing investigation. Application had to be made to the

Crown Office in order to obtain them. When certain articles obtained under search warrant were handed over there were complaints made to the Scottish Office about the propriety of that course.

7.5 Mr Sloan decided to hold a business meeting of members of the Children's Panel to consider whether the children should attend the first lawful day hearing. That was held on 1st March. The members met and decided to dispense with the children's presence at the hearing to be held on 5th March. The decision was not binding on the hearing but provided a practical guide to the Reporter. The matter still had to be considered and determined at the first lawful day hearing itself. No notice of the business meeting or its decision was sent to the parents or the children. The record of it remained on the Reporter's file.

7.6 It was Mr Sloan's practice, following that adopted in Strathclyde, to secure that grounds for referral would be available at the hearing. That meant that while it would have been otherwise practicable to have held the hearing earlier he deferred holding it until he had drafted the grounds for referral, a process which would take a few days. If he had not felt bound to produce the grounds for referral the hearing could have been held on 28th February. The possibility of going to the hearing without grounds for referral was not considered because it was not policy in Strathclyde to do so. Mr Sloan took the necessity to draft the grounds for referral into account in assessing the practicability of the date for the hearing and he settled on 5th March which was the latest possible date without the termination of the period of detention of the children by virtue of Section 37(3)(c) of the Act of 1968. He recognised that he had a tight time limit in which to draft the grounds for referral but he considered it fair for the children and the parents that they should have the grounds by the time of the first lawful day hearing. That hearing was accordingly to be asked both to consider the detention of the children in places of safety and the grounds for referral.

(B) THE GROUNDS FOR REFERRAL

7.7 Mr Sloan and Mr Jackson returned to Glasgow on 1st March and flew back to Orkney on Monday 4th March. They then set about finalising the grounds for referral. Mr Kennedy came up to Orkney for the day of 4th March to give them support and they showed him something of their work including the draft grounds for referral. Mr Kennedy did not have the detailed knowledge of the case to enable him to revise them. At that stage Mr Sloan still considered that the evidence about the children of the H family was inadequate and he was considering liberating the children of that family in the exercise of his powers under Section 37(3)(a) of the Act of 1968.

7.8 On Monday 4th March Mr Sloan received information over the telephone from Mrs Susan Millar about the interviews which had been held with the H children. The information had come verbally to Mrs Millar from the RSSPCC over the weekend. A copy of a report on the interviews subsequently arrived by fax but Mr Sloan proceeded initially on the information passed over the telephone. Neither Mr Sloan nor Mr Jackson had seen a transcript of the interview with BW of 23rd February before drafting the grounds for referral. Mr Jackson could not recall when the record of that interview had been passed to them but it was not before 3rd March. Mr Sloan and Mr Jackson were earlier aware that there had been a mention of someone called P on 12th February but they did not ask the Social Work Department how they had come by the family name of PH. That was a matter which was to have been pursued on the following Monday. In the light of the information contained in the telephone call taken along with the information which they had earlier Mr Sloan and Mr Jackson agreed that they should take the same course with the H children as they were taking with the others. On 4th March the grounds for referral were finalised for all nine of the children. Mr Sloan did not consider the obtaining of an independent assessment of the children's statements prior to the hearing on 5th March. He regarded it as rare to have disclosures of apparent eye-witnesses of abuse.

7.9 The written reports of the medical examinations were not passed to the Acting Reporter immediately. But it is probable that the results were reported orally to him before 5th March. Mr Jackson recalled that some information came through over the previous weekend or on 4th March and that he and Mr Sloan

were aware that there was nothing of great significance in the way of medical evidence to show whether anything had happened to the children. The medical evidence was regarded as neutral.

7.10 In the case of each of the nine children two grounds for referral were set out, being those specified in Section 32(2)(b) and (d), namely that the child was falling into bad associations or was exposed to moral danger and that one of the offences mentioned in Schedule 1 to the Criminal Procedure (Scotland) Act 1975 had been committed in respect of him or in respect of a child who was a member of the same household. The grounds and the accompanying statement of facts were in the same terms for each child. Mr Sloan and Mr Jackson together took the view that a group activity was involved. They did not wish the W children to have to give evidence several times over, nor to have a succession of separate hearings. They wanted the cases conjoined for the purposes of a single proof under Section 42 of the Act of 1968. Accordingly, they did not include specific different acts in relation to particular children but sought to reflect them all as involved in a group activity.

7.11 In setting out the statement of facts Mr Sloan and Mr Jackson did not identify the perpetrator of the alleged abuse. They referred to ritualistic music, dancing and dress after consulting a thesaurus and failing to find a more appropriate word to describe the music and dancing. The word had been used in the newspapers by that date, but Mr Sloan had not taken the word from the newspaper reports. They referred to 'sexual intercourse and/or simulated sexual intercourse' and did that on the view that it was not evident that all the alleged sexual activity was penetrative. The word simulated had been noted by Mr Jackson on about 28th February as a useful word to include. It gave them leeway when the children came to give evidence in Court. Although the necessity to prepare the grounds in time for the first lawful day hearing reduced the time for their preparation they considered that they had sufficient time to draw them with care and consideration.

(C) THE FIRST HEARING

7.12 The Acting Reporter was bound, under Rule 7 of the Children's Hearings (Scotland) Rules 1986, to give notification of the hearing of 5th March to the children, in the form of Form 1. Rule 7(1) applies to *inter alia* a hearing considering under Section 37(4) the case of a child detained in a place of safety. Rule 7(2) applies to *inter alia* a hearing considering the case of a child in pursuance of a referral. Mr Sloan regarded the hearing on 5th March as a hearing to which Rule 7 (1) applied, although he also believed that the Place of Safety Order became part of a referral process on 5th March, the two processes becoming merged together. He duly completed the forms and passed them to the Social Work Department for transmission to the children. Under Rule 7 (1) the notice required to be given as soon as possible before the hearing and could be given orally if it could not be given in writing. Mr Sloan took the view that as the children's presence had been dispensed with on 1st March he was not obliged to give notification and he despatched the forms as a matter of record. The forms could not have been expected to reach the children in time for the hearing.

7.13 The Acting Reporter having decided to make a referral to the hearing was also bound to inform the children of the grounds for referral. He completed the appropriate forms for intimation stating the children's home addresses and then passed them with a covering letter to each child dated 7th March to the Social Work Department so that they could be forwarded to the children. He did that because the Department would know where the children were, because that was the practice followed in Strathclyde and because, in light of their ages, the matter should be discussed with the children. The copies were sent so late that the children could not receive them before the hearing on 5th March. Mr Sloan sent all intimations to the children through the Social Work Department.

7.14 The Acting Reporter was also obliged, under Rule 8 of the Rules, to give notice, in the form of Form 2, to the parents of the hearing fixed for 5th March. On the view that the hearing was one falling under Rule 7 (1) the notification in terms of Rule 8 (4) could be oral and should be given as soon as practicable. Mr Sloan gave a written notification. It was despatched on 4th March and delivered on that day, the eve of the hearing, by the police. On 5th March at the hearing

Mr Sloan gave the parents, forms of notification in terms of Form 2 with the grounds for referral. He explained in evidence that he could not have sent them on 4th March as the grounds for referral had not been finalised. The requirement for notice of a hearing to consider the case of a child in pursuance of a referral is that it be given not later than seven clear days before the date of the hearing (Rules (8) (3) and (7)(2)). Although the grounds for referral had been issued Mr Sloan regarded this still as a hearing under Rule 7 (1) so that under Rule 8 (4) the notice had to be given as soon as practicable.

7.15 Mr Sloan was asked to delay the start of the hearing in order to enable Senior Counsel for the parents, who had encountered some delays in transport, to arrive. No warning had been given to the Reporter that Counsel was to appear. Mr Sloan did not agree as the members of the hearing had taken time off work to sit at 10am. The delay sought initially was until the afternoon. The assistance of the local MP was invoked. He telephoned to Mr Sloan from London and Mr Sloan understood from him that the delay sought was only for an hour, to which he was agreeable. The hearing then agreed to delay the sitting for an hour. Senior Counsel arrived and the hearing commenced after 11am. Mr Sloan had allowed thirty minutes for the case of each family. The hearings lasted from about 11.15am to 3 pm.

7.16 The hearing attracted a considerable number of members of the public as well as members of the press. Mrs Susan Millar was present with Mrs Michelle Miller, but the latter made no contribution. There were four representatives of the press present and at each hearing two representatives for each family. The room in which the hearing took place was small and not designed for the number of people who sought to attend. A considerable number of people had gathered outside to support the parents. It was, on the whole, an orderly and peaceful demonstration but some abuse was cast at Mrs Michelle Miller when she sought to leave the building. The number of people inside the building and the relative formality created by the professional representation for the families made the proceedings difficult to conduct and difficult to control.

7.17 The children were not present at the hearing, as the business meeting had met on 1st March and provisionally decided to dispense with their presence at the hearing on 5th March. The parents argued that the children should be present. The hearing confirmed the earlier decision.

Mrs Susan Millar gave her opinion of the need to keep the children away from home, an opinion which was shared by Mr Lee. She was not prepared to put the whole evidence before the hearing as might have been possible in a more straightforward case. Mrs T understood her to say that the foster carers were persons experienced in disclosure work. Mrs Millar did, however, indicate that all the children were with approved foster carers. No distinction was made between any of the children and, in particular, it was evidently not explained that SM was at a residential establishment.

7.18 Mr Sloan considered that he did not require to form a view for the purposes of Section 39 (4) on the continuation of the Warrant as that was for the Children's Hearing to consider. He regarded his role as a passive one. In fact, however, on 5th March he positively supported the submission made by Mrs Susan Millar that a Warrant should be granted for the continued detention of the children.

7.19 The information before the hearing comprised the grounds for referral, the pen pictures and the view verbally expressed by the Social Work Department. The members of the hearing had to proceed on the basis of taking the Department's account and the grounds for referral on trust. Neither the parents nor the hearing were aware of the particular evidence on which the Acting Reporter had formed his view that the matter should proceed to a hearing. The hearing required to rely on the Acting Reporter's belief that he would establish the grounds for referral. No background report had been prepared or indeed requested for the hearing on 5th March, nor would it have been practicable to have instructed one in time for the hearing on that date.

7.20 Mr Sloan seemed to some of the parents to act in a domineering fashion and to dominate the proceedings. He indicated that he would ask the chairperson to eject a friend of Mrs M who was present and was seeking to comfort Mrs M's distress, alleging that the friend was being disruptive. His naturally forceful

manner and strength of character was such as readily to give the impression which the parents received. The hearings were fairly fraught and tense. Mr Sloan attempted to protect the hearing from being drawn into areas which he considered were outwith its business. Faced with criticism at the Inquiry Mr Sloan pointed out that he had advised the hearing to allow a second representative to support Mrs B as her husband was away and could not attend and that Mrs M had already indicated a somewhat determined attitude against him.

7.21 The parents were asked if they accepted the grounds for referral. The presentation of the grounds for referral at the hearing enabled the parents to state their response to them, albeit at short notice. The grounds, however, had not been at that stage explained to the children and their reaction could not be put before the hearing. The grounds had been shown to the parents about half an hour before the hearing began. The parents refused to accept them. The hearing decided to send the matter to proof and granted a Warrant for the continued detention of the children for twenty-one days. An appeal was taken against that continuation of the Warrant. The appeal was heard on 6th March and refused on 7th March. No contingency plan had been made by the Social Work Department to cover the eventuality of the Warrant not being continued and the children being returned. Mr Lee had discussed the possibility of seeking new Place of Safety Orders if the appeal succeeded but Mr Sloan advised him that that would not be appropriate unless there were new grounds for the application. Mr Sloan and Mr Jackson returned to Glasgow on 10th March having been detained in Orkney due to bad weather from 7th March. At that stage Mr Sloan considered that he could prove the grounds for referral which had been drawn up relying on the three W children who had made the disclosures and the information which he received on 4th March. He had no further evidence.

7.22 Under Rule 18 of the Rules of 1986 the Reporter is bound to give notification of the application to the Sheriff to the children in terms of Form 5 and to the parents in terms of Form 6. In completing these printed forms Mr Sloan not only adjusted the text to record that the parents had denied the grounds for referral but also to indicate in addition that the Children's Hearing were satisfied that the child was not able to understand an explanation of the grounds for referral. He did this deliberately on the basis that since the children were not present they had not understood the grounds. In his present practice he now adds the words 'By Virtue of Non-attendance' to make that plain.

II. Further Procedures in Orkney

(A) THE MANAGERS **7.23** Various conversations occurred between officials of the Islands Council and members of SWSG during the period while the children were on the mainland. On 27th February a telephone call was made to SWSG giving the names of the children who had been taken into care and the persons detained by the police. Mr Lee also sought guidance from SWSG on the matter of access to the children while in places of safety and was advised that that was a matter for the discretion of the local authority. He also at the time sought guidance on the matter of religious care for the children and was referred to Regulation 15 of the Foster Care Regulations and Regulation 12 of the Residential Care Regulations. On another occasion Mr Lee discussed Effective Intervention with Mr Skinner who had succeeded Mr Colvin as Chief Social Work Adviser in March 1991. Mr Skinner agreed with Mr Lee that the document did not cover organised abuse in the sense that it did not contain material specifically about organised abuse but that did not mean that there was not general guidance in it which was appropriate to the circumstances. On and after 21st March there were discussions between officials of the Islands Council and officials of SWSG about ways in which the Social Work Department might improve their image and mention was made in particular of matters of the allowing of toys and correspondence to be passed to the children.

7.24 Following considerable concern which had been expressed to Councillor Mrs Trickett by a number of the Councillors she organised a meeting for them with Mr Lee for 4th March. It proved to be a difficult meeting. Some of the

Councillors became angry and antagonistic to Mr Lee and he felt that he was limited in what he could properly disclose to them. Mr Lee's general attitude left some at least of the Councillors unconvinced. Mrs Trickett sought the assistance of Mr McCallum of the Legal Department but some Councillors were still dissatisfied. D.I. Heddle then attended the meeting and assisted in defusing much of the anxiety. He confirmed that with hindsight he did not think that the police or the Social Work Department who had been acting together should have proceeded differently. Councillor Annal spoke to D.I. Heddle after the meeting but obtained no further detail from him. An article by Roland Summit on Child Sexual Abuse was distributed by the Social Work Department among the Councillors but it was not an easy document to understand.

7.25 When Mrs Susan Millar was away from Orkney from 5th to 8th March she had a meeting on 6th March in Glasgow with Mr Sam McTaggart, Mrs Liz MacLean and Mr Philip Greene. This meeting had been arranged on 26th February. She sought to collate the information available at that stage. There was some discussion of particular matters relating to the children placed in Strathclyde as is noted in Chapter 10. She also met Mr Ray Starrs of the RSSPCC and brought him up to date with the matter of the four families.

(B) THE RIC FORMS

7.26 The Social Work Department kept sets of standard printed forms, known as RIC forms, for use in connection with children received into care. Although primarily designed for such cases they could with modification be used for children taken to places of safety. The set of forms enabled a record to be made of a wide range of detail about the child and his or her family, including matters of health. Some information would be of help to anyone caring for the child and one copy of some of the forms was intended for that purpose. The forms included a consent form to be signed by the child's parents consenting to necessary medical treatment.

7.27 During a telephone call from Mr Gilmour to Mr Lee on 4th March an indication was given that the foster carers in Strathclyde required RIC forms. Following that Miss Lynn Drever and Mrs Julie Lee were asked to make out a set of forms for each of the nine children. The information which was available was still scant and there was little that either of them could enter onto the forms. Mrs Lee filled up a set so far as she could for the M children. She did not know what the purpose of the forms might be and assumed that it was a simple administrative exercise. She did not complete one for the H family. Miss Lynn Drever completed parts of a set of forms for the B family and for the T family. Some parts she recognised as not relevant and she had little of the information which the forms required. The source of information used for all these forms was the pen portraits together with some knowledge gleaned during 27th February. The parents were not approached to supply the missing information.

(C) THE POLICE

7.28 The police held their own debriefing to review their part in the operation of 27th February. Sergeant Hanson returned to Inverness on the afternoon of 1st March and then in accordance with the procedure prescribed in paragraph 5.22 of the Force Order she completed a form R310 for each family and forwarded these to the Reporter. They were made out in the name of Constable Williamson. Under paragraph 5.22 of the Order the form ought to have been completed within twenty-four hours of the commencement of the inquiry investigation. Sergeant Hanson understood that the Reporter and the Social Work Department had already been involved in a great deal of discussion about the case and that accordingly no purpose was to be served by forwarding these documents prior to the removal of the children on 27th February. In completing the forms R310 Sergeant Hanson used the description 'ritual sexual abuse' intending to convey that the abuse was organised and that there were elements of dancing, singing, and costume.

7.29 On 4th March D.I. Heddle returned to Orkney and proceeded to conduct further enquiries. He discussed progress with the Reporter. During March and April Sergeant Sutherland joined him in searching for a locus. Only a limited and discreet search was considered possible because of the pressure from the media and the alarm felt by the residents in that area. The main search was carried on by Constable Raeburn. As the local constable he could go round the area without attracting particular attention.

(D) THE CO-ORDINATORS **7.30** With a view to securing lines of communication between the foster carers and the Orkney Social Work Department it was considered desirable on account of the geographical considerations to appoint two persons under the title of co-ordinators in respect of the children in Highland Region and in Strathclyde Region respectively. The co-ordinator for the Highland Region was Mr Paul Hersee, a part time social worker in Highland Region. He had qualified in 1983 and worked in England. He was an approved foster carer. The co-ordinator for Strathclyde Region was Mrs Susan Brown who had obtained a CQSW at Jordanhill College and thereafter worked in Lothian Region as a Basic Grade Social Worker, then as a Senior Social Worker with a specific responsibility for abused children and latterly as a Training Officer. More recently she had become involved in the establishment of a social work centre in France.

7.31 The co-ordinators linked principally with Mrs Susan Millar. Reports from the RSSPCC would pass through Mr Sam McTaggart and then to Mrs Susan Millar or Mr Lee. Communications from the foster carers for the Social Work Department or for the RSSPCC were intended to pass through the co-ordinator. In the Highland Region Mr Paul Hersee had the support of Miss Janette Chisholm. She remained as the co-ordinator for the W children but in so far as the four families and the W family were regarded by the Social Work Department as one case her activity occasionally involved matters relating to the four families. No formal arrangement was made for the co-ordinators to communicate with the police but in fact the police were kept informed of anything said or done by the children which might be of importance for them not only through their representatives at the interviews with the children but also through the Social Work Department of matters reported by the foster carers.

7.32 The arrangement had been made with the Department that there would be routine contact between the Department and the co-ordinators. This was attempted on a daily basis but that was not always achieved, particularly in Strathclyde. The co-ordinators were also asked to telephone to the Department if there was anything to be said outwith such routine reporting. On 14th March, after discussion between Mrs Susan Millar and Mr Paul Lee, Mrs Michelle Miller was appointed to contact the co-ordinators on a daily basis in order to enable the members of the department to be kept abreast of the information regarding the children. Mrs Susan Millar was finding that her own workload was excessive. Mr Sloan did not meet either of the co-ordinators nor did he need to do so. His investigations and the obtaining of statements for him was managed through his solicitors.

(E) THE CURATORS **7.33** The Sheriff Principal who had decided the appeal on 6th and 7th March 1991 appointed an advocate as a curator *ad litem* to the respective children of each one of the four families. He was asked initially to appoint nine curators, one for each child, but that was opposed by Mr Sloan who agreed to the appointment of four. These appointments were welcomed by Mr Lee although the Department had little time to become further involved with them other than to provide any information which they required. The possibility of appointing safeguarders was not raised. There would not in any event have been a sufficiency of persons within Orkney to satisfy that appointment. Although they were not given any specific powers in their appointment the curators had no difficulty in obtaining such information as they required.

7.34 The four curators consulted among themselves almost every day and shared the information which they collected. They had full co-operation from the parents, their Counsel, and the various agencies involved in the case. They informed all interested parties of their appointments. They spent a considerable effort in collecting information about the case and the children. On 12th March they agreed to seek professional assistance and two psychologists were appointed by them, two instructing one and two instructing the other. The two psychologists were Mrs Brenda Robson and Mrs Susan McLaren. Arrangements were made for the latter to visit the RSSPCC centre at Strathaven to view interviews with the B children.

7.35 The curators and their solicitor visited Orkney on 18th March and had a long meeting with Mrs Susan Millar and Mr Lee. The curators found the management of the Social Work Department very co-operative. Mr Lee and Mrs Millar gave the curators an account of the background to the case and of what certain of the children had been saying in interviews. Mrs Millar stated that the police had not found in their search what had been expected. She and Mr Lee suggested to the curators that they should consider the material relating to the allegations and hear the tape recordings of the interviews before they saw the children. The curators spent most of the day at the Department but managed to have a brief discussion with the parents of the respective children before they left. The parents would have liked more time to talk to them.

7.36 There was some uncertainty in Mrs Susan Millar's mind as to the curators' role and that uncertainty remained after she had met them. She found it a matter of further complication that they acted through solicitors and appointed Counsel to act for them. She would have liked them to act in an intermediary role so that, for example, they could have assessed the children's wishes on the question whether a religious representative should visit them. Some of the parents took a similar view, believing that the curators would have the role of befriending and looking after the children. Explanations were given to the Orkney Islands Council and to the parents of their role but the precise extent to which matters of the welfare of the children fell within their province was not well understood. The extent of their powers generally was also somewhat uncertain as for example in relation to the interviewing of the children. Their work as representing the children for the purposes of the litigation necessarily involved some consideration of matters of welfare but the limits of their remit remained uncertain.

7.37 The curators having taken advice decided that the competency of the proceedings before the Children's Hearing ought to be challenged and through their law agents by letter dated 21st March warned the Reporter's solicitors of that decision. The curators did not all share the same strength of view on the position. They realised that this course might involve some delay but they considered it appropriate to attempt to have the point aired at the outset. They believed that the Acting Reporter could commence the proceedings afresh if the case was incompetent. On 22nd March they intimated that there would be no representation by or for them at the hearing on 25th March. They were not opposing the continuation of the warrant.

(F) PRESSURES OF WORK

7.38 The whole Department remained under intense pressure over this period due not only to the burden of work but the attentions of the representatives of the press who were taking an assiduous interest in them. The pressures on Mr Lee and on Mrs Susan Millar were particularly severe. On 13th March Mrs Millar contacted Mr Ray Starrs regarding a press statement which was to be issued by Mr Lee. Mr Lee's workload was making it difficult for him to prepare this and Mrs Millar conceived the idea of helping him. The burden of work on Mrs Millar remained substantial. She took on, as she saw it by default, the responsibility for working with the co-ordinators and for resolving any problems which they had. She had her ordinary work as team leader for all the occupational therapists and field workers and she felt that she was in an impossible position.

7.39 Press statements had been issued by the Orkney Islands Council after the removal of the children and again on 2nd March. However in order to deal with the intense media interest in the matter of the nine children it was decided to appoint a Press Officer for the Council. The idea was promoted by Mr Skinner the Chief Social Work Adviser to the Secretary of State in the SWSG. An invitation was given by the Chief Executive of the Council, Mr Ron Gilbert, on 14th March to Mr Nicholas Clayton who had graduated in Sociology, was a qualified teacher and had had experience both of publishing, journalism and teaching. He is presently a freelance journalist and public relations consultant. The matter was discussed at a meeting on 15th March and Mr Clayton agreed to assist in dealing with press matters from Monday to Friday in Orkney. His work began on 18th March. He discussed the situation with Mr Lee and with Mrs Susan Millar and read up about the case and the legal framework of it. He issued a press statement

of his appointment indicating that all enquiries relating to the matter of the nine children should be addressed to himself. He found the staff in Orkney under extreme pressure. They had no system to deal with press enquiries. Mr Lee was the only person who dealt directly with the press. The telephone was constantly ringing and the clerical staff were inundated with enquiries.

7.40 The parents' supporters appeared to Mr Clayton to be well organised and to be operating a concerted campaign to discredit the Social Work Department. The press coverage was such as to enable Mr Clayton to recognise the parents when they came to the Social Work Department. He was not happy at the press publicity which enabled the adults and their children to be identified within the local community. A friendly relationship clearly existed between the press and the four families which he took to have been organised by the families. The press knew their identities and their telephone numbers and were welcome to visit their homes and wait their return if they were out.

7.41 Mr Clayton was severely restricted in what he could say properly to the media. He sought to explain the roles of the parties involved and the system of the Children's Hearings, but he could not match the free flow of information between the media and the parents. The readiness of the parents to be interviewed and filmed enabling extensive coverage of their point of view to be published could not be equalled by the Council through the necessary constraints of confidentiality.

7.42 On the Friday afternoon of his first week Mr Clayton had a discussion with a journalist working for 'Scotland on Sunday'. They discussed guidelines relating to the medical examination of children involved in sexual abuse cases. The journalist formed the view that Mr Clayton knew of medical evidence relating to the nine children. Mr Clayton had had no intention of giving such an impression and in fact he knew of no such evidence. The following Sunday an article was published indicating that Mr Clayton had 'leaked' information that Orkney Islands Council had evidence which 'could be consistent with some form of abuse'. Mr Clayton first heard of the article when Mr Bruce, a solicitor acting for certain of the parents, rang him at 9.30 pm on the Saturday and asked what medical evidence he had been leaking. Mr Clayton replied that he did not know what Mr Bruce was talking about. He saw the article the following day, was upset about its terms and phoned around members of the Orkney Islands Council advising them that it was not correct. On the Monday he issued a press release stating that he had not had the information available to him and could not have talked about it to the journalist. The article caused considerable annoyance to Mrs T among others. The results of the medical examinations had not been formally disclosed to the parents.

(G) A CASE CONFERENCE

7.43 On 13th March consideration was given by the management of the Social Work Department to the holding of a case conference. Mrs Susan Millar had been pressing for one for some time before. The matter was also discussed with Mr Sam McTaggart on 15th March. It was understood that pending possible criminal proceedings it would not be possible to disclose details of the evidence at such a conference. It was accordingly decided that a conference would be held although as Mrs Millar saw it would only be a courtesy meeting because relevant information could not be disclosed at that time and the matter would require to be deferred. On 13th March the police met at Dalneigh and some account was given then of what had been said in interview by some of the nine children. It was noted that the proof would start on 3rd April and the substance of the meeting was relayed to Mrs Susan Millar by telephone.

7.44 A case conference was held on 19th March. It was attended by Mr Lee, Mrs Susan Millar, other staff of the Social Work and Education Departments, representatives of the RSSPCC and the police, the co-ordinators and Miss Janette Chisholm. Mrs Susan Millar preferred to call it a case discussion rather than a case conference but in the contemporary record it is referred to as an NAI case conference.

7.45 The conference was concerned with all the nine children although some consideration was given to the individual cases. The H family were treated as in the same position as the other families although neither Mr nor Mrs H had been detained by the police. The purpose of the conference was to pool the information

held by those attending. The impossibility of discussing the disclosures because of the current police enquiries limited its usefulness.

7.46 Information was given to the conference about each of the children. There were no questions asked about their progress. Some information was given on their education. It was reported by Mrs Susan Brown that the B children were not attending school, and that arrangements were being made for them and for SM to have the service of a tutor. No one appears to have asked why the children in Strathclyde were not at school.

7.47 D.I. Heddle attended the conference and gave some explanation of the joint enquiries pursued by Mrs Liz MacLean and Constable Williamson. Miss Lindsey Stevenson who had been interviewing the children placed in Strathclyde Region did not attend the case conference. She had passed to Mrs MacLean some information about the interviews in Strathclyde in order that she might convey the information to the conference. Mrs MacLean duly reported on all the children and the interviews relaying the information given her by Miss Stevenson about the children in Strathclyde. It was indicated that a decision was being awaited on the question of the taking of criminal proceedings. As had been intended the conference deferred consideration of the case pending the proceedings currently underway. No planned evaluation of anything said by the children was made and no review of the continued detention of the children was made in light of what was or was not emerging from the interviews.

7.48 None of the parents were invited to the case conference. No consideration was given to the possibility that the parents might attend in part. The importance of parents attending case conferences is pointed out in 'Effective Intervention' paragraph 4.19 and Mrs Susan Millar was aware of that advice but a possible exception to that attendance is recognised there when a criminal prosecution is in prospect. Nevertheless, the opportunity could have been taken to obtain information from the parents related to the care of their children. Two other persons who might have been invited to this conference but were not were Dr Broadhurst and Mrs May Armour who was the Health Visitor in South Ronaldsay. The reason for that seems to have been related to the Department's concern about confidentiality. On 22nd March after the conference Mr Lee wrote letters to the parents of the four families to let them know that a child protection case conference had been held on 19th March in respect of their children. Minutes of the meeting were prepared but while a copy was put into each of the families' files in the Department copies were not sent to the parents until a considerable time later.

III. Preparation for the Proof

(A) THE REPORTER AND THE INTERVIEWS

7.49 After the grounds of referral had been denied the Acting Reporter applied to the Sheriff for a finding as to whether the grounds were established. On 11th March he lodged Form 1 being the applications for a finding on the grounds of referral. Warrant was given for a hearing on 3rd April. This was intimated to the children and the parents. Thereafter he set about preparing for the necessary proof. He instructed Senior Counsel, anticipating that the matter would be complex. His intention and that of Counsel was to lead all the nine children and the three W children as witnesses and if that evidence was not satisfactory then to take stock and reassess the situation. He considered that the evidence of the earlier interviews as spoken to by the interviewers and supported by their tapes and reports would not be sufficient. The evidence stood by itself and there was nothing else to support it, which was different from the case of the W children in the previous year where he had been able to support the evidence of what the children had said with medical evidence. Such was the advice of his Counsel. The detailed preparation of the proof was left to Counsel and the law agents. Mr Sloan had other work in Orkney and in Strathclyde to attend to. But he kept in touch with the preparation and attended four consultations before the diet of proof, including one which occupied nearly the whole of Easter Sunday.

7.50 On 11th March there was a consultation with Counsel attended by Mr Kennedy, Mr Sloan and the law agents. It was decided to appoint psychologists

to assess the evidence of the three W children and the nine children. They would assess the information from the children and give an opinion as to its truth and credibility or whether it was fantasy or the product of a conspiracy. They would consider the methodology used by the interviewers and would check whether it could be discredited on the basis of the manner in which the evidence had been obtained. It was left to them whether they would or would not see the children. On 12th March Mr Sloan asked the police for all the tape recordings of interviews and the drawings by the children but D.C.I. Gough did not feel that he should hand these over without obtaining authority through the Procurator Fiscal. After the consultation on 11th March two clinical psychologists Ms Ouaine Bain and Miss Judy Mackinnon were approached and agreed to assist.

7.51 After the four curators were appointed it became evident that an increasing number of people were wishing to arrange interviews with the children and more particularly to have the children interviewed by experts. Both the Acting Reporter and the families were wishing psychologists to see the children and Mrs Susan Millar became concerned at the multiplicity of interviews to which the children were likely to be exposed. The curators were seeking to instruct two psychologists and the Acting Reporter was doing the same. She discussed the problem with Mr Sloan, and the police and over the telephone with Dr Kusumakar, a consultant psychiatrist at the Sick Children's Hospital in Edinburgh, on 18th March. Dr Kusumakar advised that it could be sufficient if a study of the drawings and full records of the interviews was made by an experienced interviewer. Mrs Millar thereafter engaged in further discussion on the problem of multiple interviewing. In the event the Acting Reporter's experts met with the foster carers rather than with the children and so further interviews were to that extent avoided.

7.52 Mr Sloan was aware from at least 27th February that the nine children would be interviewed and he became aware that the RSSPCC had been contracted to undertake that work. He recognised that interviews could produce evidence for the proof and the bulk of the information went to his solicitors to assess for that purpose. On 21st March 1991 Mr Sloan reported to a consultation which was held on that day that the psychologists were happy that the children were making their statements voluntarily and were not being led. However, at that consultation, Senior Counsel advised that the interviews should be suspended for the purpose of the collection of information for the proof.

7.53 As the interviewing process went on the load of work on the police who had undertaken the transcribing of the tape recordings increased. By 22nd March there was a significant backlog in the work. On 23rd March a further consultation was held at which Senior Counsel reiterated her view that the interviews should be terminated. The reasons for her advice on 23rd March as recalled by Mr Kennedy were firstly in consideration of the Cleveland Report and secondly the excessive quantity of information which had been received with its attendant quantity of work in transcription. The psychologists were present at the meeting but were still considering their position and had not yet decided whether they would visit the children. Counsel's concern in relation to the Cleveland Report was understood to be about the number of interviews which was appropriate.

7.54 The Acting Reporter recognised that he had no authority to order the interviews to be stopped. The RSSPCC were not acting under his instructions and in so far as the police were taking an active part in them he could not order them to desist. All he could do was to request that they be stopped and in practice he expected the co-operation of the agencies with a reasonable request. The requests, however, were conveyed with qualifications which were not wholly comprehensible and the whole matter was coloured by some evident difference of understanding as to what was to be done.

7.55 On 21st March Mr Sloan's solicitors wrote to the solicitors acting for the RSSPCC stating *inter alia* the decision to have the interviews stopped until the tapes and transcripts could be considered by their professional advisors, with the exception of any 'therapeutic disclosures in progress' or 'one that was particularly traumatic and which they considered would require to be completed'. Mr Sloan subsequently had a telephone discussion with Mr Sam McTaggart in which the latter indicated a concern on the part of the interviewers that the Acting Reporter

was doubting the professional ability of the interviewers. Mr Sloan sought to reassure him and on 25th March a fax was sent by the Reporter's solicitor to Mr McTaggart indicating that the decision to refrain from further interviews was on the advice of Counsel and the expert psychologists. On 26th March Mr Sloan's solicitors sought to reinforce the view expressed on 21st and 25th March and on the same day D.C.I. Gough informed Mr Sloan that he would agree to cease interviews for two days, but that he would resume them thereafter if he wished to do so. On 27th March Mr Sloan wrote to Mr McTaggart reiterating his wish to cease the interviewing except for 'normal therapeutic work' and his assurance that he had no criticism of the RSSPCC's work. Mrs Liz MacLean regretted that the momentum of the interviews was not to be kept up and informed Mr McTaggart that they were not purely therapeutic; the children were communicating to her.

7.56 On 27th March Mr Sloan's solicitors wrote to Mrs Mackinnon raising a concern that she might have reconsidered her position and might be accepting that interviews could continue for therapeutic purposes. On 28th March the psychologist replied saying that there had been a misunderstanding, that the interviews should continue if they were helpful to the child or to the case, lest the withdrawal of the relationship with the workers should be damaging to the children. A further consultation was held on Sunday 31st March at which Senior Counsel again expressed her view that the interviews should cease, referring to the poor evidential nature of anything obtained and the risk of accusations of pressure being put on the children. Following that consultation Mr Sloan's solicitors again wrote to Mr McTaggart on 1st April seeking to set out the position and indicating that interviews should continue if they were seen as helpful by the workers but that this must be discussed with the curators. The police were keen to restart the interviews and on 3rd April 1991 indicated that wish to Mr Lee.

7.57 The reason presented by Mr Sloan's Senior Counsel to the Sheriff at the subsequent hearing was recorded in his Note (at 1991 SLT p. 537J) and appears to have been a concern about the propriety or even the legality of the interviewing process. Among the matters indicated by Mr Sloan's law agents as concerning the psychologists employed by Mr Sloan to assess the interview work in the letter of 25th March from his agents to the RSSPCC were the number of interviews which each child was having, 'the possible pressure exerted on them and the finalisation of precise recording techniques and arrangements'. While Mr Sloan assured Mr McTaggart that he was not doubting the professionalism of the RSSPCC interviewers it appears that some unease was already being felt by his advisers about the methodology used in interviewing the nine children. While the psychologists indicated on 28th March that the interviewing should continue they observed that 'the methodology varied considerably from child to child'. In planning the presentation of the evidence Counsel's intention was to lead the oral evidence of the W children and the nine children themselves first and to look again at the situation if nothing was forthcoming from them. Counsel was not relying primarily on the hearsay evidence of what the children had said to the interviewers. The reason for preferring the direct evidence was no doubt partly the greater weight which primary evidence would have before the Court. But it is also evident that there was some anxiety about the quality of the evidence available if resort to hearsay had to be made.

(B) THE SECOND HEARING **7.58** A second sitting of the Children's Hearing was arranged for 25th March. On 14th March they met to consider dispensing with the children's presence on 25th March and decided to do so. No notification of that meeting was given to the parents or the children. On 25th March the Children's Hearing sat again. The purpose was to decide whether the twenty-one day warrant was to be renewed. Again the parents were represented by Counsel and again there were a number of press and other people in and outside the building but not so many as there had been at the earlier hearing. However, there was again a degree of agitation and disorder which proved difficult to control and the noise was such that the chairperson had difficulty in being heard. In arranging for the hearing Mr Sloan had allocated fifteen minutes for each family and had so informed the curators.

As he saw it the parents could express a view on the further detention of the children but could not present their views on the grounds of referral. In the event, each of the four hearings exceeded the allotted fifteen minutes.

7.59 Mr Sloan did not see his role as requiring him to keep the continued detention of the children under assessment. He would rely on the view of the Social Work Department. Under Section 37(5) of the 1968 Act he required to apply and show cause for the further continuation and that required an initiative from him. But as the risk recognised on 5th March still existed he supported the Social Work Department on 25th March. It was enough, in his view, that the grounds of referral suggested that the children were involved in abuse with adults who were either parents or members of the community. That the abuse would continue, he described in his evidence variously as a possibility, a likely possibility and pure speculation. The purpose of the detention in his view was not to enable evidence to be collected but to protect the children from risk if a risk existed.

7.60 On 25th March the hearing had some information before them on the position of the children in their placements. This had been prepared by the Social Work Department and their reports strongly recommended renewal of the Warrants. The report relating to SM's education at his residential school stated that 'a tutor has been engaged by the school to help him with any subjects they are unable to cover'. That was inaccurate. Similarly the reports relating to SB, WB and EB inaccurately indicated that each of them was being educated by a tutor.

7.61 At the sitting on 25th March the hearing formally agreed to dispense with the presence of the children. Counsel, however, questioned the absence of the children and sought to obtain an explanation of the grounds for their detention. They also sought without success to draw the hearing's attention to the results of medical examinations. Mr Sloan resisted this on the view that the results of the medical examinations were matter for the Sheriff and not for the hearing who only required to consider the matter of the extension of the Warrant. As he saw it, the hearing should not be asked to look at matters of evidence relevant to the grounds for referral. Under Rule 6 (2) of the 1968 Rules a Reporter is obliged to make available to a hearing any document which he has obtained and which is 'material to the consideration of the case of a child at any children's hearing'. Mr Sloan took the view that the medical reports were not material because the hearing was only concerned with the extension of the Warrant and not with the truth or otherwise of the grounds for referral. They were not relevant to a hearing under Section 37 (4) nor Section 37 (5). The only question open for consideration before the hearing was the continued existence of a risk to the children. With this approach Counsel for the parents took objection and there was thus a dispute on the competency of looking at the medical reports.

7.62 The argument before the hearing became somewhat heated. The parents' representatives sought to have the hearing consider their argument on the materiality of the medical reports. Mr Sloan took the view that it was incompetent to refer to them and that no argument should be developed on that point. At one stage he stated that he would ask the Chairperson to have the Counsel and solicitor for Mr and Mrs M excluded from the hearing on the ground that Counsel was persisting in behaviour which disrupted the proceedings. This was based on the determined attempts by Counsel to have the hearing listen to argument on the competency of taking account of the medical reports as new matter after the Chairperson had indicated that they would not take account of them. Mr Sloan considered that there had been sufficient debate about the matter. His conduct was seen by some of the parents as tyrannical and arrogant.

7.63 At the end of the hearing the Warrants were renewed for a further twenty-one days. On the following day, 26th March, an order was obtained from the Court of Session following an application made to that Court enabling the hearing of evidence on the grounds for referral to be held in Inverness. The decision of the hearing on 25th March to renew the Warrants was taken on appeal to the Sheriff. On 29th March, which was Good Friday, the Sheriff decided under Section 49 (4) to confirm the decision of the hearing. While the proof required in the interests of the children to be held as soon as possible the particular complexities of the case, involving the interviewing of the children, the preparation for the

proof, the application to the Court of Session, the conjunction of the four cases and the obtaining of legal aid made an earlier proof impracticable.

(C) THE FIELD WORKERS' MEMORANDUM

7.64 During the middle of March four of the staff of the Social Work Department, Mrs Mary Finn, Mrs Michelle Miller, Mrs Julie Lee and Miss Lynn Drever became so unhappy about certain aspects of the management of the Department that they decided to send a memorandum expressing their concern to Mr Lee, with a copy to Mrs Susan Millar. The memorandum was drafted expressing all their concerns jointly by them and was typed on 25th March 1991. The principal was put in the box used for Mr Lee's mail and a copy was put in the box used for Mrs Susan Millar's mail. Mr Lee, however, possibly because of the inordinate amount of correspondence which he received never saw his copy until about June. Although it was addressed to him, Mrs Susan Millar took the initiative in responding to it. She thought that it was an insensitive document which would increase the pressure which Mr Lee was already suffering.

7.65 The memorandum set out in four numbered paragraphs the matters which were causing concern to the field social workers. The first referred to what they saw as the entrenched positions taken up by their Department on the one hand and the Acting Reporter's Department on the other in relation to certain matters including examination of the nine children by psychologists. The second and third paragraphs related to other matters unconnected with the W children or the nine children where there had been a difference of opinion within the management of the Social Work Department. The last paragraph was in substance a request for time to be set aside to keep the field workers regularly informed about work with the nine children. The field workers felt that there was a lack of unity in the Department with the management separated from the rest of the staff which made working relationships difficult. They felt that they were not being kept fully informed about the direction and management of the Department's work with the nine children. Mrs Julie Lee had a concern which was shared by others that Mrs Liz MacLean was involved in the interviewing of some of the nine children when she had already been involved in the interviewing of the three W children and might unconsciously be drawing out the information which she wanted.

7.66 On 26th March Mrs Susan Millar went to Mrs Michelle Miller's room and talked with some of the social workers about the memorandum. Mrs Susan Millar felt that there was no need for the memorandum to have been written. She considered that Mrs Michelle Miller who was by then a senior social worker should have spoken of any concerns which she had to her rather than exacerbate the anxieties of the social workers by writing a formal memorandum. She was upset and angry at the way, as she saw it, that the social workers had distanced themselves from her. She believed that the memorandum proceeded on a misunderstanding but she believed that she had passed on to Mrs Michelle Miller all the knowledge which she herself had. While the memorandum sought time to be set aside for regular updates she considered that the staff all had all the information even if they did not think they had. The social workers regarded her response as aggressive and angry. They again received the impression that they were not to criticise or question senior management and that they were simply required to trust them.

(D) THE FINAL PREPARATION FOR THE PROOF

7.67 Towards the end of March Mrs Liz MacLean was asked to put together anything she could see of an evidential character from the interviews which had been conducted and pass that information to Orkney Islands Council. She was working under some pressure of time but faxed the information which she collected as quickly as she could to Orkney on 29th March. These summaries of interviews with certain of the W children arrived by fax in the Department on the morning of 29th March. From these it was considered that all the nine children and a parent of each family were involved in the alleged abuse.

7.68 The Acting Reporter was aware of the intention by the curators to raise an attack on competency at the hearing on 4th April but he did not give the possibility of failure on that ground much thought as he believed that no such point could be successfully taken. He had discussed the consequences of losing the competency point but he was confident that the point was a bad one. By the

end of the month parties were completing their preparations for the proof before the Sheriff, which was due to be held on 3rd April 1991. On 29th March some of the field workers and Mr Lee had an unplanned meeting in the Social Work Department to consider what steps if any should be taken if the hearing before the Sheriff should lead to a premature end to the procedure taken with the nine children. On 29th March Mr Lee wrote to Mr Sloan raising the question of taking out further Place of Safety Orders. Mr Sloan, however, advised him that new information would be needed if a new order was to be sought.

7.69 The appointment of the four curators added significantly to the number of people eventually involved in the Sheriff Court proceedings. Each of the four curators instructed solicitors and Counsel to act for them. They had also sought to instruct psychologists to assist them. The Acting Reporter who was guided by solicitors and counsel who also instructed two psychologists. All the parties sought to complete their preparations and assembled at the Sheriff Court in Kirkwall on the morning of 3rd April 1991.

VIII THE SOCIAL WORK DEPARTMENT AND THE PARENTS

I. The Position in General

- (A) INITIAL SUPPORT
- 8.1** Contrary to what was recognised as good practice no visits were made to the parents after they returned home on 27th February and no instructions were given to any of the social work staff to make such visits. There had been no discussion of any visiting and no decision had been made not to do it. No plans had been made against the contingency that some or all of the parents would not be detained by the police. Mrs Susan Millar had considered on 26th February that a different approach was merited in the case of Mr and Mrs H but any thoughts she had on that matter were not translated into any positive step to secure support for the parents nor to provide any special action for Mr and Mrs H. Apart from such support as was given during the uplift and the detention of the parents, and that was not extensive, no positive initiative was taken on the 27th.
- 8.2** Thus Mrs B was allowed to return home alone to an empty house not knowing where her children might be. It was not known to the Department where her husband was and the only information possessed by them was the suggestion contained in the pen portraits of the children that the parents might be separated. However even although it might have been anticipated that she would be alone there was no discussion of her position nor of the need to give her support. Similarly Mr and Mrs H were left alone in their house in a state of isolation and bewilderment. Mrs Julie Lee when she left them advised them to contact the Social Work Department and take legal advice but she expected that the Department would have contacted them. The police did not visit them again for a considerable time on account of the media activity and did not invite them to any interview although they were eventually interviewed by the police on 20th March. Councillor Annal visited them on 27th February and heard that the Mr and Mrs M and Mr and Mrs T had been detained by the police. He learned later that Mrs B had been detained. He visited C.I. Ratter and after some delay was also able to see Mr Lee but obtained little information from either of them and while he recognised that he could not expect detailed information he was not given any feeling of confidence.
- 8.3** On 1st March 1991 Mr Lee sent a letter to each of the four sets of parents telling them that their children were well cared for, that he could not disclose where they were and that contact with them would be prejudicial. He expressed concern and sympathy to the parents and invited contact with him for discussion within the bounds which the nature of the enquiries allowed. Mr Lee wrote further letters to the parents on 7th and 22nd March advising them to keep in communication with the Department and to tell the Department of any particular requests for information about the children which they might have. On one occasion he arranged for Mr Paul Hersee to pass information to Mrs Trickett so that she could pass it on to one of the families.
- (B) RELATIONSHIPS
- 8.4** Relationships between the Social Work Department and the parents were undoubtedly strained. One factor which coloured that relationship was the considerable degree of public feeling which was demonstrated in support of the parents. Word of the event spread rapidly on 27th February and there was alarm and anxiety both at what had occurred and whether any further removal of other children was to follow. Several residents organised a public meeting which was held at the Cromarty Hall at St Margaret's Hope in South Ronaldsay on 1st March with about three hundred people present. The parents of the four families were invited to attend and did so. The meeting was chaired by Miss Martini who was a local

surgeon and the wife of Dr Broadhurst, together with a Mr Stephen Manson a neighbouring farmer and Special Constable. C.I. Ratter and Mr Lee were informed of the meeting but did not attend. Mr Lee felt that he should not do so because he was not ready to attend what he knew would be a hostile meeting and because of the confidentiality of the information which he had about the families. One parent of each of the four families gave the meeting their account of what had happened. They received a sympathetic and supportive hearing. Then and thereafter many voices were raised in criticism including that of the local councillor, Councillor Annal, who, with no special knowledge of the particular evidence on which the actings had proceeded, stated publicly that the information was flimsy and inadequate.

8.5 Following on the meeting of 1st March a smaller meeting was held with a view to the constitution of a group to organise public concern. On the 9th of March a further public meeting was held at which a group afterwards known as the Parents Action Committee was constituted. Miss Martini became Chairperson of the organisation with the Reverend Derek Edwards as Vice-chairman. The objects of the committee were to facilitate the return of the children, to obtain an Inquiry and to promote changes in the law to prevent a repetition of what had occurred. Their intention was to do this, as Mr M saw it, by establishing a climate of opinion that a huge mistake had been made. Miss Martini dealt with the press and took on the organising of a press conference. She considered that wide publicity was good for the children. The Parents Action Committee operated as Mrs Susan Millar saw it with the purposes of ridiculing the W children's statements, denying any allegation of abuse and aiding the parents in their desire to have the children returned. An advertisement was published asking for evidence of the alleged activities but at least in Mrs Millar's view this was another attempt to ridicule the allegations.

8.6 At an early stage members of an organisation called Parents Against Injustice (PAIN) arrived in Orkney and proceeded to make certain enquiries. They met with the parents and had discussions with them with a view to preparing a report. A meeting was arranged between them and Mr Lee but before meeting him the representatives of the organisation held a press conference at which they released something of the results of their enquiries which had been embodied in their report. They had prepared a press release and delivered it to Mr Lee's office shortly before they met him.

8.7 In addition to the feelings of support for the four families there was considerable anxiety in the locality about the possibility of the removal of further children. On 9th March Mr and Mrs M voiced the concern they had in this regard to C.I. Ratter and he assured them that nothing of that kind was contemplated. Miss Martini had less success in endeavouring to invite discussion with Mr Lee. She wrote on 18th March inviting him to a meeting but on 29th March received a reply from Mr McCallum of the Orkney Island Council's Department of Law and Administration advising against such a meeting. Even although the mood in the locality was rather one of securing some warning and some means of concealment against the event of further steps to remove children than of any positive intention of physical violence the circumstances were not such as to encourage the social workers to feel that they could visit the parents usefully or even safely.

8.8 Another factor in the relationship was the hostility which was felt and expressed against the Social Work Department. One unusual feature of this was that it did not die away but continued to be fiercely felt over the whole period. It was not directed at every member of the Social Work Department with equal vigour, but primarily at Mrs Susan Millar. Thus when the parents' solicitors wrote to Mr Lee on 20th March seeking someone from the Department to come to meet the parents it was made expressly clear that neither Mrs Susan Millar nor Mr Charlie Fraser would be acceptable. Although the police had been involved along with the social workers in the removal of the children the hostility was concentrated on the social workers rather than the police. The hostility was fuelled by the strongly expressed criticism voiced by some of the parents' advisers and published in the press, such as the statements that the Islands had lost confidence in the Social Work Department, that the community was being terrorised and that protection

was needed from persons who were described as 'vindictive people'. This hostile criticism was one element in the decision not to invite the parents to the conference on 19th March. It was also an element in discouraging any of the social workers to visit the parents homes.

8.9 In light of the evident hostility with which Mrs Susan Millar was regarded Mr Lee took on himself the major role of dealing with the families. It was Mr Lee whom the parents usually sought to see. That led to a gross overloading of work onto himself and the impossibility of other members of the Department being sufficiently informed of all details regarding the children's welfare. It became impracticable to keep an up to date record of all communications and the immediate filing of details relating to the children was not always achieved. No staff were appointed as key workers to support the parents or to act as a link with the Department until the return of the children but after that time a greater contact was achieved with some of the families.

8.10 Another feature of the relationship between the parents and the Social Work Department was that within 48 hours of the removal of the children the parents had all instructed solicitors to act for them. On 27th February Mr Bruce, one of the solicitors instructed, told the Department that contact was to be through the solicitors. By letter of 11th March solicitors acting for the M family wrote to Mr Lee telling him that all written communications for that family should be directed to the solicitors. The Social Work Department was not used to working with clients through their solicitors and to some extent this added to their difficulties in seeking to build up a useful relationship with the parents.

8.11 Despite these difficulties in the relationship between the Social Work Department and the community there was considerable contact between the parents and members of the Social Work Department. There was always one duty social worker available failing Mr Lee or Mrs Susan Millar. But while the parents did call at the Social Work Department and various matters were discussed with them the information about the families remained diffuse, inadequate and uncertain. There was little time to make records of the substance of all meetings and discussions relating to the children in care.

II. Particular Issues

(A) CONSENTS FOR MEDICAL TREATMENT

8.12 On 7th March a letter was sent to each of the four sets of parents enclosing a form seeking their written consent for medical or dental treatment to be carried out if required on their children including operations under general anaesthetic. However none of the parents agreed to sign these forms. Mrs B recalled the form arriving and had declined to sign it because of her extreme annoyance. She felt that the children should have been with her. Mr and Mrs M refused to sign because they considered that their parental rights had not been lost. They were not prepared to give the blanket authority which was sought. They considered that if a problem arose they would respond to it. Mr and Mrs H felt angry at the request. Mrs H felt that by not signing the forms she would be able to obtain accurate information about any illnesses suffered by the children and the Social Work Department would require to approach her. Mr T felt that if the children needed treatment an approach should be made to the parents and control should not be taken from them.

(B) ACCESS TO THE CHILDREN

8.13 It had been decided that no access should be allowed to the children by their parents or their siblings. Mr Lee regarded the matter of access as one that depended on the circumstances of the case. Access would be refused at least during the period that the children were having investigative interviews. He recognised that the prohibition could add to the trauma of the child. Mr Lee proceeded on the basis that access was a matter for the discretion of the local authority and had been so advised by Mr Sinclair of the SWSG on 4th March although the law was silent on the matter. The reason for the decision was that access might prejudice the children's future ability to disclose. There was the fear not only that one child might discourage another from disclosing but also that evidence might be contaminated by the contact with other members of the family. The decision to refuse

access was plainly influenced by the course taken with the W children and little attention was paid to the possibility that the situation regarding the nine children might be different.

8.14 The parents did not initially know where the children were and so did not know whether the children were together. The refusal of access was indicated to the parents in Mr Lee's letter of 1st March. Mr Jackson was asked on that same date by a solicitor acting for certain of the parents for the addresses of the children and he gave the addresses on the telephone. On 7th March an approach was made by Mrs Neilson of Shepherd & Wedderburn WS, about access for lawyers and Mr Lee told her that this would not be possible. Access was however allowed for a rabbi to visit the T children during Passover on their parents' insistence. Access was not denied to the curators when they wished to visit their wards. From the point of view of the parents where there was a conviction that the children had not been subjected to any abuse both the separation of their placements and the prohibition of access were regarded as mistaken, as it was considered that the children would suffer emotional deprivation. Mrs H was particularly concerned about the separation of PH and TH who she regarded as a typical brother and sister who would fight each other but close ranks to support each other against a common problem. TH in particular was insecure and easily upset and Mrs H was worried at her total isolation. Concern was also felt at the absence of personal possessions. Mrs Mary Finn was also concerned at the absence of access for BT. She believed the siblings should be allowed contact with each other and their parents should be allowed supervised access. She raised this on her return to Orkney after seeing the children in their placements on 27th February and only then learnt that all access was to be refused.

8.15 Mrs Susan Millar said in evidence that the matter of access would be continuously reviewed. Account would be taken of the views of the RSSPCC, the police and the attitude of the parents as well as what the children might say. The view of the Acting Reporter would also be a factor. But the possibility of review is not recorded in the brief notes she made in relation to the meeting on 21st February in Strathclyde. Inter-sibling access was raised at her meeting in Glasgow on 6th March and the consideration of a possible review of access was noted in her record relating to 13th March 1991 where it was said to depend on the making of an assessment. But that assessment was not done. At that stage it was an assessment by Mrs Brown the co-ordinator which was looked for. Even if there was no conflict between the position of the children and their parents on the matter of the alleged abuse Mrs Millar preferred to be guided by Mrs Brown's opinion. Mrs Millar considered that any change from the general refusal of access would be determined and initiated by the co-ordinators and they would consult with the RSSPCC and the police.

(C) CORRESPONDENCE

8.16 Any mail or presents for the children were delivered in the first instance to the Social Work Department. The intention of the Social Work Department was that it should be seen by the RSSPCC for a decision whether it should be passed to the children. After the co-ordinators were appointed it was sent to them to be forwarded by them to the RSSPCC. The intention was that the interviewers would decide whether the child should receive the communication or the article or not. Mr Sam McTaggart and Mrs Liz MacLean however understood that the handling of the mail was a matter for the co-ordinators and not the RSSPCC. Mr Paul Hersee understood that all the mail was to be passed to Mrs MacLean and he accordingly passed all the correspondence to her. Mrs Susan Brown understood from the outset that no mail was to be delivered to the children. At the meeting of the co-ordinators on 19th March the decision was affirmed that none should be given to the children as a matter of general policy. In their treatment of the mail for the children the Social Work Department were again following the pattern of procedure which had been adopted in relation to the W children.

8.17 At a later stage it was agreed with Mrs MacLean that the material could go to the children but it was intended that it should still pass through the co-ordinators and the RSSPCC. Mrs Susan Brown learned of this change of policy after she returned from France where she had been between 25th March and 2nd

April. She understood that mail from the children's families could be passed on after screening by the RSSPCC but that mail from outsiders was not to be delivered. The mail had accumulated during her absence. She took it to Strathaven but it proved impossible to sort it all out before the children returned. Mr Paul Hersee passed one quantity of mail and a teddy bear to Mrs MacLean. Another quantity of communications arrived after the interviews had stopped and Mrs MacLean had left the area. This was retained by Mr Hersee as Mrs MacLean was expected back. Only on the last day when Mr Lee, after discussion with Mr Sam McTaggart, told Mr Hersee to pass on the mail did he hand it over to the children.

8.18 Mr Lee stated that Mrs Susan Millar arranged the system with the co-ordinators and he kept no personal control over it. Mrs Millar said that she was only peripherally involved and that Mr Lee had made it his province. The system, however, plainly did not work. This was attributed by Mr Lee to a mechanical or an administrative error. He expected the letters to be delivered.

8.19 The operation of the system for dealing with the mail was rendered more difficult by the volume of mail which arrived at the Social Work Department. Several hundred postcards arrived, many addressed to the M children, some to 'the Quaker child' and others simply to 'a child'. This depersonalisation was done in order to conceal the identities of the children but it was believed by the senders that even messages so addressed would have helped the children to realise that they had not been abandoned. A large number of communications was sent but not received by the children. It was thought that about three thousand communications arrived from all over the United Kingdom, twelve hundred of which were sent to the M children. Friends of Mr and Mrs M had asked what they could do to help and Mr and Mrs M had suggested that cards might be sent. This was spread through the Quaker society and taken up centrally in that organisation.

8.20 The breakdown of the system for the transmission of letters was the more unfortunate in that neither the parents nor the children were aware of the breakdown. BT's parents wrote to him on 19th March saying that they would love to have a letter from him but neither they nor BT realised that communication between them was not being achieved. The parents were given signed receipts for the letters and cards which they handed in to the Social Work Department and assumed that they would be forwarded to the children and not to an intermediary. Mrs B handed in cards, letters and presents to the Social Work Department to be forwarded to the B children but these never reached them and she believed that four toys had not been returned to her. She was concerned to discover that SB had been asking why she had not written and no-one had told him that she had. The notifications for the hearing of 5th March did not reach the children in time. BT received his as he was about to board the plane to return to Orkney on 4th April. Mrs T had wanted to send a teddy bear to BT. She took it first to the police station on 19th March and then to Orkney Islands Council on 20th March but BT did not receive it until just before he boarded the plane to return together with some letters which she had sent.

8.21 After the children had returned a number of items had to be traced and returned to the families. Mrs Julie Lee and Miss Lynn Drever were particularly involved in trying to trace the missing property. Some things had been left behind in the foster homes. Some clothes were returned to the H family on 20th May 1991. Compensation was paid for a lost pair of trousers. Mail which had never reached the children was returned to the families. Some was passed back by the police to the Social Work Department. Some was handed to certain of the children as they were about to board the plane to return. Some items were brought to Orkney from Strathaven on 9th April by Mrs Brown and later distributed. Some was only returned weeks after the children returned. Some of the mail had not been opened. As Mr M said it was while they were in foster care that the children needed the communications and not after their return.

8.22 Particular concern was expressed by the M family about a teddy bear which was returned with what seemed to be new areas of stitching which suggested that the toy had been tampered with, perhaps with a view to discovering whether there was some article concealed within it. Mr Lee had agreed to Mrs M bringing in the teddy bear to the Social Work Department for the child. The teddy bear did

not reach the child for whom it was intended. The complaint was taken seriously. Mrs Julie Lee discovered that it had been returned from the RSSPCC office having gone through the co-ordinator. Mr and Mrs M and others also sent packets of Easter eggs to the children in their original cellophane sealing. Many of these were returned having not reached the children. Many were broken and Mr and Mrs M believed that some had been broken open to see if something was concealed inside. Some sent by the B family were returned whole.

8.23 So far as letters from the children were concerned Mrs Susan Millar understood that such letters were permitted. Mr Lee did not suggest that the children should not write and believed that it was encouraged. Mr Lee and Mrs Millar agreed with some of the parents that the children could send mail but considered that it should come through the Social Work Department. However the policy with regard to letters from the children had not been clearly laid down at the outset so that when at his interview on 7th March JM asked if he might write home Mrs Liz MacLean told him that he should not because that was what she had understood from Mr Sam McTaggart was to be the position at the time. She herself saw no reason why JM should not have sent off a letter to his parents. JM started to write a letter but had not finished it by the date of his return home. Mr Paul Hersee told the foster carers that it was not to be sent before he had first seen it. BT and MT each wrote a letter to their parents but the letters were not forwarded to the parents until they were sent on to them after the children had returned.

III. Particular Contact with Parents

(A) MRS B **8.24** Mrs B was in a state of shock and stress on 27th February. She felt desperate for support and reassurance. She consulted her solicitor Mr Bruce and went with him to the Social Work Department on 28th February. Mr Bruce had arranged a meeting with Mr Lee at 4.0pm. Mrs Susan Millar also attended. Mrs B was still in a state of shock but her shock was turning to anger. She gained the impression that Mr Lee was not caring whether she was there or not. She was informed there had been allegations of abuse and that she had been implicated in them.

8.25 Mrs B asked if some cuddly toys which she had brought with her could be sent on to the children. Mr Lee at first said that he could not do that but then said that he would forward them on but could not give them to the children. Mrs Susan Millar said that the toys would be used as evidence and she seemed to Mrs B to be sniggering. In Mrs Millar's view soft toys were potential inhibitors for the children and she was anxious to protect the children whom she regarded as abused.

8.26 On 1st March Mrs B told Mr Lee and Mrs Susan Millar that EB had asthma. EB had taken some medication with her on 27th February but a question arose later whether she had all the correct medication with her. It appears likely that a further inhaler was handed in to the Department for her and went astray. After EB had returned home Mrs Susan Brown received an inhaler in Strathclyde intended for EB and it was subsequently returned to Orkney.

8.27 Mrs B had various communications with the Social Work Department over the period of the children's absence. She did not find it productive to visit the Department. As she saw it Mr Lee had an immovable conviction that the Department was right and it seemed that there was no room for discussion whether there might have been a mistake. The Social Work Department did not contact Mr B personally while he was in England. It was not until 21st April that he was interviewed by the police.

8.28 At the time of the removal SB was about to undergo certain dental treatment which included the removal of some teeth. On 7th March Mr Lee wrote seeking consent from Mrs B to her son receiving dental treatment. Mrs B wished to be with her son while he underwent an operation which required a general anaesthetic. In the event, the operation was not required and her consent was not needed.

(B) MR AND MRS H **8.29** It was only late on 27th February that Mrs Susan Millar learnt that Mr and Mrs H had not been detained. When she met Mr and Mrs T on that day she still

did not know that the H's had not been detained nor their house searched and assumed that they had been treated in the same way as the others. When she learned that this was not the case she offered through Mr Bruce their solicitor who was in the Department on 28th February, an appointment for the following Monday, but had no further contact herself. Mrs Millar had learned from Mrs Julie Lee after she had returned to the Department on 27th February that Mr H was suffering from a brain tumour but no action was taken on that information.

8.30 Mr Bruce passed to Mrs H the Department's anxiety to see her but Mrs H felt unable to talk directly to the Social Work Department and asked her solicitor to do that for her. She could not bring herself to speak with someone who, as she put it, had 'legally kidnapped' her children. Her mother visited Mr Lee twice and through her, Mrs H learnt that the children had been taken to the mainland. She herself did, however, have daily contact with the Department and was given information about the children, some of which she considered absurd, such as the fact that one of her children knew how to draw. Dr Broadhurst made contact with Councillor Mrs Trickett and asked her to meet Mr and Mrs H. Such a meeting was arranged for 4th March. Mrs Trickett explained that she was unable to discuss details of the case but was able to discuss some aspects of the matter with the parents and tried to resolve some of their problems.

8.31 On 22nd March Mr and Mrs H visited the Social Work Department by appointment with some letters for the children. They were accompanied by among others Mrs T and Mrs H's mother. On the same day Mr Lee had written to Mr and Mrs H about the case conference on 19th March inviting them to feel free to call. Contrary to Mrs H's expectation the meeting was with Miss Lynn Drever. Mrs H was informed that she could not see Mr Lee as he was attending a meeting. Miss Drever said that she would forward the letters and Mrs H presumed from that that she would forward them to the children. In the event TH got one of the letters at the airport on her return and PH got his a few days later.

8.32 Mrs H also raised through her solicitor an alternative placement with her sister-in-law in Doncaster. He wrote to the Social Work Department on 26th March and Mr Lee replied on 29th March. Mr Bruce, Mrs H's solicitor, told her that the Social Work Department were not considering a change of placement as the children were committed to the care of the Orkney Islands Council.

(C) MR AND MRS M **8.33** Mr and Mrs M made various visits to the Social Work Department and had discussions with Mr Lee which were conducted calmly and without rancour. Mrs M found it easier to understand him when he avoided what she regarded as social work jargon. On 10th March Mr Lee offered them the opportunity to have a discussion and they made it clear that they did not want Mrs Susan Millar to be there. Mr and Mrs M, like the other parents, wanted Mr Lee to come to them rather than require them to come to him. But he gave them to understand that it was inappropriate.

8.34 They were not prepared to talk to Mrs Susan Millar because the view which they had formed of her was, as Mr M put it, that she spoke in clichés and did not communicate. She did not seem to him to be a warm person with whom one could communicate on a proper level. It appeared to him that the assumption that he and his wife were guilty was written all over her manner. Nor were they prepared to talk to Mr Charlie Fraser. He had, as Mrs M saw it, run away when he had come to the house on 27th February and she saw no point in meeting him. In correspondence their solicitor sought to arrange a meeting at the M's home with anyone except Mrs Susan Millar and Mr Charlie Fraser.

8.35 Mr and Mrs M took some steps to a constructive and less confrontational approach. A letter was written by Mr and Mrs M and Mrs B to Councillor Mrs Trickett asking her and Mr Lee to come to South Ronaldsay and to look around and talk. Mrs Trickett replied that she was willing to do so but that it was difficult to fit in a visit. They also wrote to the RSSPCC. Councillor Mrs Trickett met Mr and Mrs M and Mrs B on 25th March and told them what she could about SM's placement and the correspondence. In response to the suggestion that some access might be arranged to JM at Easter she replied that she would investigate that and Mr and Mrs M understood that she was supportive of the idea. Mr and

Mrs M also understood from Mrs Trickett that the establishment in which SM had been placed was not as they had thought a List D school but a Residential School.

8.36 On 28th February after hearing that the children were removed Miss M, the elder sister of SM and JM telephoned to Mr Lee and made various suggestions to him regarding access to her brothers none of which he was prepared to accept. He said that she could write letters to them through him but he could not give an assurance that the letters would be passed on to them. That same day she and her older brother wrote a letter for the children's panel which she sent by fax to Mr Lee and to Mr Sloan asking that they might have access to their two younger brothers. She also made contact with a number of friends and relations and following replies from some of them wrote again to the Panel sending copies of the letter to Mr Lee, Mr Sloan and Mr Gilbert, the Chief Executive of the Orkney Islands Council, and thereafter she sent further letters by fax to Mr Lee and Mr Gilbert, on the subject of alternative placements. She received a reply by telephone from Mr Gilbert. Later letters from her to Mr Lee, Mr Sloan and Mr Gilbert were acknowledged by Mr Gilbert and on 29th March she received a letter from Mr Lee apologising for his delay in replying due to pressure of work and saying that he was awaiting the outcome of the hearing before considering a change of placements for the boys. Mr Sloan received the letters from Miss M and her brother but neither acknowledged them nor replied to them as he considered that they did not need a response. The alternative carers suggested by Miss M were not understood to be persons who were approved foster carers and may not have had any experience of sexually abused children, but Miss M had offered to find further alternatives if her proposals were unacceptable.

8.37 On 9th March 1991 at 11.30 in the evening Mr M spoke to the duty social worker on the telephone to express Mrs M's concern about SM's placement in a residential school. Mrs M was in a state of extreme nervous tension and was anxious for SM's health and safety. She was terrified that he might be molested and that he might catch Aids. She wanted to be able to telephone the school for reassurance. The message was passed to Mr Lee and he rang the M's house several times up to about twenty minutes past midnight but received no reply. Mr M had disconnected the telephone while he attended to a cow which was about to calf.

8.38 On 10th March Mr Lee having failed to make contact with Mr and Mrs M early in the day later spoke to Mrs M on the telephone and she again expressed her concerns and suggested an alternative placement for both the boys at a Quaker school in England. Mr Lee said it would not be a Place of Safety, meaning that it would not qualify as such a placement as it was outwith Scotland. Mr Lee then rang Mr Mair, the headmaster of Geilsland School. He explained that SM had a room of his own in the school and there was no risk of his being sexually molested. Mr Lee passed on to Mr and Mrs M an assurance that there was no cause for worry.

8.39 On 29th March which was Good Friday Mr and Mrs M had a long discussion with Mr Lee about the possibility of sending an Easter message to the children. It was suggested that their elder son or daughter might visit the two younger boys who were in places of safety. The discussion lasted about three hours and from time to time Mr Lee would leave the room to take advice on the telephone from Mrs Liz MacLean on whether or not he could agree to the various proposals which were put forward. On each occasion he returned to say that the suggestion could not be allowed. The interviewing of the children had been terminated but it was not clear whether that was a temporary or permanent cessation. Mrs MacLean gave as her reason, as Mr Lee recorded, that 'JM maybe was on the point of discussing issues that he wished to discuss relative to events that had happened.' She did not give advice to Mr Lee on the matter of access. Eventually Mr and Mrs M understood that Mr Lee was prepared to take a tape recorded message and forward it to those who had control of the mail sent for the children and were working with them. Mr Lee indicated that the tape would be used in interviewing the children. The parents had already realised that the mail was not reaching them and the whole idea was given up.

8.40 Mrs M had spoken with Mrs Trickett and Mr Wallace MP about the proposed access and she understood that Mrs Trickett was sympathetic with the suggestion. The M's eldest child also spoke on the telephone with Mrs Trickett and Mr Wallace MP about the proposed visit. Somehow the matter reached the ears of the press and a report was published indicating that Mrs Trickett was supporting Mr and Mrs M in their attempt to gain access to the children. Neither Mr nor Mrs M recalled speaking to the press about it but it was possible that Mr M had mentioned Mrs Trickett to them. Mrs M was also given to understand by the Acting Reporter that access would be permitted by their solicitor to JM but in the event no access was achieved. Mrs M did not know why the access was not allowed.

(D) MR AND MRS T **8.41** Mr and Mrs T visited the Social Work Department on 27th February to deliver MT's glasses. They spoke to Mr Lee and Mrs T handed over the glasses. In response to her questions Mr Lee told her that the children were on the mainland and that access could not be allowed to her or even some neutral person as it was desired to proceed with disclosure work as quickly as possible. She told Mr Lee that the children were vegetarian, should not be given sweets, crisps or fizzy drinks and should not watch TV. Mrs Susan Millar was present at this visit and she met them there for the first time.

8.42 Mrs T was not fully in control of herself as she entered the Social Work Department. She said something to the effect that if Mr McKenzie had been sexually abusing her children she would kill him. Mrs Susan Millar mis-remembered what was said and thought that the statement had a significance which it did not have. Mrs T had a brief exchange of words with Mrs Millar criticising her treatment of Mrs W. Towards the close of this visit Mrs T recalled that Mrs Millar said something to her by way of an invitation to her to discuss her relationship with her children at any time and advising her that an abused child would never fully recover until the abuser admitted the guilt. Mrs Millar, however, claimed that what she had said was that if they wanted to come in and talk about their children and even if the things the police had talked about had happened the Social Work Department would be prepared to work with them. Whatever may have been the precise words which were said, the impression which Mrs T received was that Mrs Millar believed her to be guilty of abuse and Mrs T resolved to have no further contact with her. After further exchanges Mrs T walked out of the office. Mr and Mrs T returned to South Ronaldsay in the evening. They visited Mrs B and Mr and Mrs M. While like the others they made attempts to have someone other than Mrs Millar come to South Ronaldsay and visit them, no member of the Department did so.

8.43 Between 28th February and 5th March Mrs T telephoned several times to Mr Lee. After the latter date she kept a full diary of the events relating to the children. Mr and Mrs T were assiduous in passing information to the Social Work Department regarding the particular requirements of their children. These were relayed by one of the social work staff through the co-ordinator to the foster parents. Numerous everyday problems were raised and explored. The social workers dealt with them as best they could. Thus there was passed on through Mr Paul Hersee the parents' concerns about what television programmes should be watched, that a bath was to be taken every night, that no comics were to be read, how teeth were to be cleaned, how MT's earrings were to be cleaned and how her hair was to be washed

8.44 A message was passed to Mr Jack Goodfellow that Mr and Mrs T wanted information on a daily basis about their children. He arranged for that to be done and then Mr Paul Hersee took over that task. There was, thereafter, regular and usually daily contact between Mr and Mrs T and the Social Work Department for information about their children. The telephone calls were usually made by Mrs T but her husband was normally present. Often Mrs T would initiate the call and frequently they had to wait for the social worker to return the call with the information.

8.45 Mr and Mrs T were far from being reassured by the information which they were given. When told simply that the children were eating well, sleeping

well and in good health the repetition of what they regarded as stereotyped words made Mr T question the reliability of the message. He did not know from whom the message had originated and the absence of substantial detail made the message seem to him to lack reality and to be a mere placebo. It seemed little more than an indication that the children were still alive. They had no reports from the schools attended by the children. Their own distress was such, however, that they did not press for more detail. Weighed down as they were with tension and anxiety and desperate for any information they could get they lacked the strength to complain further and were thankful to have the opportunity to discuss the children with someone. They listened avidly to anything that was said. It was the truth they wanted to hear and they lacked the confidence that the whole truth was being told. On one occasion they expressed their concern about their son to C.I. Ratter. He spoke to D.I. Heddle and enquiries were made. C.I. Ratter later assured them over the telephone that it was not true that the boy was unhappy. The messages which were passed on to Mr and Mrs T did contain some amount of detail. Thus, it was reported that the children were attending school, that they had been swimming, that BT had been playing practical jokes, that he enjoyed building model aircraft and that he was playing football at school.

8.46 One matter which caused concern was in relation to the children's reading of books. Mrs T was anxious that MT should have enough to read. They also learnt one day that BT was reading *Oliver Twist*. They sought to explain to the Social Work Department that he should not read that book without their guidance because he might find it offensive in the characterisation of Fagan. They were concerned about what he might take as the anti-Semitic element in the book. They felt some difficulty in explaining their attitude to the Social Work Department but the problem was resolved.

8.47 Mr and Mrs T were also anxious that their children should celebrate Passover which commenced on 29th March in accordance with Jewish tradition. Mr Lee passed the matter on to Mr Paul Hersee who discussed it with the children. BT was not sure if he had celebrated the festival in Orkney and said that he did not want to celebrate it where he was. He was not bothered about it. MT was not concerned to celebrate the festival away from the family. Mr Paul Hersee felt that the matter should not be pressed given the children's views. Mr Lee also spoke on the telephone to Mrs Liz MacLean about a visit by a Rabbi and Mrs MacLean reminded him that it had been decided that no access should be allowed to the children.

8.48 Mr Lee passed the message of Mr Paul Hersee's discussion to Mrs T explaining that the children only wanted to celebrate the festival at home and that they said that they did not celebrate it regularly. Mr and Mrs T were not happy with the position and after some correspondence Mr Lee contacted a Rabbi in Glasgow who was prepared to travel to Inverness, see the children and celebrate Passover with them. In the event, the Rabbi did visit the children during the period of the Passover. He was taken to the children by Mr Goodfellow who thought that the children were confused and did not seem to know what it was all about. Mrs T was, however, happy with the eventual arrangement.

IX THE CHILDREN IN HIGHLAND REGION

I. The Medical Examinations

9.1 On 25th February Sergeant Hilary Hanson set about making arrangements for the carrying out of the medical examinations of the five children coming to Highland Region. She considered bringing doctors to Orkney but decided that there was neither time nor any suitable place. She contacted Dr Shepherd who was to examine the children placed in Strathclyde but he did not agree to come to Highland Region to examine the children placed there. On 25th and 26th February 1991 Sergeant Hanson arranged by telephone for the carrying out of the medical examinations by Dr Annie Griffiths M.B., Ch.B., Dip.Obst.R.C.O.G., D.C.H., M.R.C.G.P. and Dr John MacDonald M.B., Ch.B., F.R.C.P., Dip.Obst.R.C.O.G., D.C.H.. Dr Griffiths was one of the general practitioners who was on a rota of female doctors available for the examination of victims in case of alleged sexual abuse in the Northern Constabulary area. Dr MacDonald was employed by the Highland Health Board as a consultant in paediatrics. Dr Griffiths phoned Dr MacDonald and they arranged to carry out the medicals at Dalneigh on Friday 1st March. The doctors chose the Friday because they thought that an earlier date was inappropriate in light of the distance and the trauma to the children if they were examined immediately on being taken away from their homes and families and also in order to fit in with their own professional commitments. Sergeant Hanson saw no need for immediate examinations as there was no indication that any abuse was likely to have taken place within the twenty-four hours before the children were removed.

9.2 Thus while in Strathclyde the medical examinations took place immediately on the arrival of the children, in Highland Region they took place on the Friday following the Wednesday of the removal and not before the children went to their foster homes. The children were thus not exposed to repeated medical examinations for evidential purposes although in Strathclyde some further general medical examination was found necessary. The delay in holding the examinations in Highland was a cause of some concern because of the compromising position in which it might place the foster carers, if there was no record of any injuries which the children had before they came into their care. Mrs Susan Millar understood that the medical examinations would be carried out both in Strathclyde and Highland Regions before the children went to their placements.

9.3 Dr MacDonald explained to each child that he was going to make a detailed examination of them and that he wanted to examine their genitalia and anal regions to see if there were changes or abnormalities there which could have been caused by individuals doing to them things which should not have been done. He asked and obtained from each child permission to examine the child. He explained in a way which he considered suitable for the child what he wanted to do and the child then gave permission. He did not expressly say that the child did not need to consent. The practice in Highland was to seek the consent of the child and if the child did not consent then the examination would not proceed. Some uncertainty and difference of view was expressed by witnesses at the Inquiry regarding the consents which were required for the medical examinations.

9.4 The examinations which were carried out in Highland Region were not only designed to see if there was evidence of sexual abuse but also to review the child's general health for the purposes of being received into care. The doctors included an examination for 'freedom from infection' although their instructions on that matter had not been specific. Dr Griffiths took part in the examination and a constable was present in the room. Sergeant Hanson was also there at times. Four

of the children were examined between 11.00 and 1.00. PH however was not examined until 7.45pm as a result of a delay in his arriving at the place for the examination.

9.5 Sergeant Hanson was struck and disturbed by MT's appearance at the medical examination. The child appeared to Sergeant Hanson to be behaving like an old woman, very mature, calm and composed, and slightly sad. Sergeant Hanson discussed her impression of MT with Constable Williamson and the doctors. Dr MacDonald's experience was that children varied enormously and while MT's reaction was not usual he would not put any significance on it. BT was more nervous in comparison with his sister and Dr MacDonald chatted to him to put him at his ease. BT had some embarrassment about the fact that he had been circumcised. Dr MacDonald did not remember any mention of that matter, but Constable Williamson recalled one of the doctors stating the fact.

9.6 While Dr MacDonald did not use the same precise form of words in the reports which he issued following on his examinations the substance was the same, namely that there was no evidence of vaginal or anal penetration. While the examinations were not pleasant for the children and JM, like his brother in Strathclyde, regarded the examination as degrading no complaint was made of the care and consideration which the doctors exercised.

II. The Highland Placements

(A) THE IDENTIFICATION OF THE PLACEMENTS

9.7 As was narrated in Chapter 4.4 Mr Lee had from the outset taken the view that placements could not be found for the nine children within Orkney and had accordingly in the faxed message of 14th February sought placements from the other regions of Scotland. In response to Mr Lee's request Highland Region offered him eight placements in residential or foster home accommodation. All of these were within forty miles of Inverness. Mr Lee discussed the offer with Mr Jack Goodfellow and understood that some of the placements would be on the west coast at Lochinver which he considered to be too far away for the purposes of the interviews. He was not aware that there were any other available placements in Highland Region and he was conscious of the difficulty of finding any placements even in the larger regions. On 22nd February Mr Lee requested five of these and a selection was made by Highland Regional Council of the most suitable foster carers.

9.8 The five children placed in Highland Region were each accommodated in a separate placement in a private house under the care of foster carers. In each case the foster carers had been assessed and registered by the Highland Regional Council and had the guidance contained in the foster parents' handbook issued by that Council. The individual placements were selected in the region with an eye to their being a reasonable distance from Inverness and in a rural setting which might resemble that to which the children were accustomed. There were in fact more placements available within an appropriate distance from Inverness than were offered to Mr Lee but he was unaware of that. He accepted those which were offered to him from that region.

(B) THE CO-ORDINATOR

9.9 Mr Lee and Mrs Susan Millar considered that the best method to preserve control was to appoint a co-ordinator within the Highland Region and on 28th February Mr Paul Hersee was appointed to that role having travelled to Orkney and discussed the matter with them. He had been recommended by Mr Jack Goodfellow, the principal of Ferintosh Assessment Unit. He had no written instructions but he was to act as the representative of Orkney in the Highland Region and to keep contact with the foster carers, the RSSPCC and the Social Work Department. As Mrs Susan Millar saw it the functions of the co-ordinator were to act as the children's social worker, to support the placements, to provide a link with the staff of the RSSPCC, to check the incoming correspondence for the children with the RSSPCC, to provide a link with the Orkney Social Work Department and to make a continuing assessment of the placements. As was known when Mr Hersee was appointed he could only start work on 4th March

and Mr Goodfellow dealt with any matter requiring attention in the period up to 4th March. The work took up most of Mr Hersee's time so that his own work with Highland Region had to be covered by his colleagues. He kept notes of his work and passed them with a summary of the main points to Orkney after the children were returned.

9.10 Mr Hersee kept in almost daily touch with the foster carers in the Highland Region and with the Social Work Department in Orkney. He discussed various administrative matters with the foster carers and was available for their support. The foster carers were able to contact him if they wished his advice and, failing that, they could contact Mr Goodfellow. Mr Hersee also kept in touch with the police and with Mrs Liz MacLean. He was satisfied that she was relating well to the children. He would pass on to her any unusual or significant information. He also was responsible for the transporting of the children to their interviews as required by the RSSPCC and the police and organised taxis for that purpose. Mr Hersee also had some concern with some of the visits paid by the curators to their respective wards in Highland Region.

9.11 Mr Paul Hersee also kept in touch with the children themselves and informed them of the course of the Children's Hearings and of the appointment of the curators. He was asked by letter of 8th March 1991 by Mr Lee to explain to the children the grounds for referral. Between 11th and 14th March he accordingly visited each of the children and explained the grounds to them, giving them a full explanation of the allegations which had been made. On 15th March Mr Lee sent him notification of the proof hearing and again he visited the children to explain that to them. He went over the allegations again with them and emphasised that the parents had denied them. He explained the kind of abuse which was alleged and gave them details of the ring of people and how it was suggested that children were drawn into the middle of the circle and there abused. He appreciated that the explanation could be beneficial or prejudicial to the children. Some were embarrassed by it but he considered it appropriate to give an explanation taking due account of each child's age and emotional condition. The foster carers had been instructed not to let the children see the television or newspaper coverage of the matter but Mr Hersee thought that the children probably did see some of the coverage.

(C) THE FOSTER CARERS

9.12 The foster carers in the Highland Region readily accepted their role as being available to listen to the children but not to embark on any positive initiatives of investigation. They were told that it was suspected that the children might have been sexually abused. They knew that they were to look out for anything unusual in the children's behaviour and they did not require detailed information to warn them of what might be significant. They were to deal with anything said by the children with sensitivity. As Mr Hersee saw it they simply used their common sense. They passed on any relevant information to the co-ordinators or to the police.

9.13 The foster carers in the Highland Region felt that they could usefully have had more background information and asked Mr Paul Hersee for more. He shared their view and took the matter up with Orkney Islands Council but there was no further background information which they could give him. The foster carers had less information than was usual about the children who came to them, although it was their experience that in emergency placings the information could be very scanty. However, the information was sufficient for their purposes although more would generally have been preferred. The policy which Mr Lee had intended was to give little information about the allegations to the foster carers as they were only to be custodians of the children and it was not desired that they should enter into discussions with the children about their experiences lest that might influence anything that the children might say to the RSSPCC. The children seemed to Mr Hersee to be thriving through the course of their stay in the Highland Region and their relationships with their foster carers were good.

(D) EDUCATION

9.14 All the children in Highland Region attended local schools and achieved some degree of continuity in their education. A question was raised at the outset

whether they should be attending school but unlike the position in Strathclyde it was quickly resolved and they started at school during the second week of their respective placements. Mr Paul Hersee contacted and spoke to the teachers involved with the children who had been placed in Highland Region. Following discussion with the children's teachers Mr Hersee obtained reports from Orkney Islands Council dated 13th March, about two weeks after their arrival, on their educational progress showing the levels reached in various subjects. Such reports were available for all the children except the oldest two, WB and SM who were in Strathclyde.

III. PH

9.15 The foster carers who were entrusted with the care of PH had been respite carers from June 1990 and had been formally approved as foster carers by Highland Region in February 1991. As respite carers they had taken over when the particular persons looking after handicapped children or foster carers working with family groups required time off or a holiday. They had already had experience of looking after certain sexually abused children. They had two daughters of their own and Mr Goodfellow regarded them as a warm, accepting, and down to earth couple whom he considered would be a good match for PH. The foster mother was well supported by her Social Work Department and if there was anything which she did not understand she had simply to pick up the telephone and ask. She had particular support from a specific social worker and could get advice and support from that source. She had a copy of the publication prepared by Highland Regional Council entitled 'Foster Parents' Handbook' also available for her guidance.

9.16 The foster mother had been asked on 26th February if she would take a boy from Orkney. She was warned that the boy might be upset and some mention may have been made of possible sexual abuse. The foster mother agreed and PH arrived on 27th February. PH seemed to be fairly friendless and quite unhappy. He settled in and generally got on well with the foster mother's own children. He seemed a bit shaken when he arrived particularly through the separation from his sister but that was not unusual in the foster mother's experience. He quickly settled down and enjoyed the placement. He found no difference in discipline between the placement and his own home. He liked the family and felt comfortable but preferred to keep his feelings to himself rather than discuss them. PH was taken for a medical examination on the Friday and regarded his examination as no different from those he experienced when seeing his own doctor.

9.17 PH's foster mother considered that she had enough information about him and was not hampered by not having more. She received the pen portrait of him but found that he was not like the description which it gave. She was aware that he had allegedly been abused but was not sure of the details. If information came from the child which was relevant to his history or experience she regarded it as a matter of common sense to note it and pass it on. She was not certain that she had received a copy of the Place of Safety Order. She had been given a list of the child's likes and dislikes by the social worker who had brought him and she found that helpful. She noted that he did not like gravy because he thought that his mother used blood to make it. When PH asked his foster mother how long he would be away from home the usual answer he received was that she did not know.

9.18 The foster mother was aware that PH had a sister who had also been taken into foster care on a Place of Safety Order. She was told that there was to be no contact between the two children. A day or two after PH arrived he wanted to phone his sister, but the foster mother put him off with an excuse that she could not find the code. He did not seem to miss his sister and stopped asking his foster mother about her. PH sometimes spoke about his parents and of Orkney but he did not ask as many questions as his foster mother expected that he might have done. He asked his foster mother why he was there and she thought that he was testing her because he had already been told that he had been taken away for his own safety. She gave him a similar answer and advised him not to worry but to treat the period as a holiday.

9.19 PH was kept away from newspapers and from the television. That was done by his foster mother on her own initiative. She was not given any guidance on the matter. She was afraid that he would be hurt by seeing the news. She found no difficulty in excluding PH from the media coverage. He received no letters or presents. When Mr Paul Hersee called on 13th March to explain the grounds for referral to him he replied that it was rubbish.

9.20 PH attended a local school, starting on the Monday, 4th March. No problem was experienced from the other children in the school. They were not unduly curious about him and they easily accepted him into the class. The headmaster was simply told that PH had come from Orkney. PH liked his school companions but thought that the school buildings did not compare favourably with those of his own school in Orkney.

9.21 During the course of his stay with his foster mother PH acted out certain plays which caused his foster mother considerable concern. She did not encourage him to embark on them but once he had started she would encourage him to continue. She kept notes of what he was doing. The plays featured elements of religion, violence, bloodshed and sex. At first he started dressing up, wearing his foster mother's high heeled shoes and she paid little attention thinking that he was simply playing. The plays subsequently seemed to her to become more significant. One play related to a minister who wore a black coat and a hood and had a belt with a buckle in the pocket. A scene was acted out with the help of the foster mother's two children and her niece in which the minister would strike a child, and the child's mother became angry and threatened to put the minister under the floorboards. PH referred to the minister's wife and to a Sunday school and that costumes were kept in a corner of the minister's kitchen. He became nervous and red in the face when acting out the plays and did not seem to be his normal self. He gave the foster mother a description of the minister's house saying it was filthy. He told her that he did not like church and was quite upset when the foster mother asked him if he would like to go to church. Another play involved PH being placed in a cardboard coffin with holes in it and being taken to a cardboard hill and left by himself. Another related to a creature called the Gremlin monster. A third concerned a Viking. He also referred to a video film of horses and to a man being cut in two. The foster mother was so concerned at these plays that she phoned Sergeant Hanson with whom she was acquainted but she was not available. She also spoke to Paul Hersee about them.

9.22 PH's foster mother found him to be a well-behaved and loveable child. He slept well and ate well. He evidently enjoyed school and she had no worries about caring for him. She sought to give him tenderness and loving care and regarded that as her role and responsibility.

IV. TH

9.23 TH's foster mother was a widow much respected for her fostering work in the Highland Region. She was very experienced and successful in raising children's feelings of worth. She had had sixteen placements since she was approved as a foster carer in 1984. She had had experience of sexually abused children. She was a community carer and she had fostered fourteen children including children who had been sexually abused. She had seven children of her own and seven grandchildren. She already had one girl fostered with her and it was considered that this particular placement would be appropriate and beneficial to TH. The foster mother was well supported by the Regional Social Work Department and by Mr Paul Hersee. TH shared a bedroom with a thirteen year old girl who had been with the foster mother as a foster child for five years. They got on well together.

9.24 The foster mother agreed on 26th February to take TH. On her arrival on the evening of 27th February with Constable Susan MacLaren and Mrs Julie Lee, TH was upset and a little tearful but she came and sat on her foster mother's knee and hugged her. She settled very quickly that night, ate her dinner and seemed happy. During her stay she frequently giggled and the foster mother found her

an easy child to deal with. TH seemed to her to be a very capable child with an open and sunny nature. She found no need to discipline her and regarded her as helpful and willing. TH did not regard the foster mother as overly strict and found the house rules much the same as her own family's rules. The only row TH remembered was related to her sucking her thumb. She missed her home and regretted the lack of contact with her brother. She was unhappy with the situation but put up with it, realising her inability to find her way home if she ran away. She wished that it was all a dream. She stopped sucking her thumb which she had initially done. She settled down happily and seemed to improve during her stay. She matched well with the foster mother and received a good level of care.

9.25 TH's foster mother worked voluntarily on a local community newspaper for two hours on three days a week during the mornings. It was feared at the outset that she would not have sufficient time with her various other commitments to give adequate care for TH and in particular with her voluntary work. During the first week of her stay TH did not go to school. The foster mother took her along to the newspaper office with her and she played on an old typewriter there and waited until the foster mother was free. Mr Jack Goodfellow considered that TH needed a few days in any event to settle before she started at school. After the first few days TH was settled at school and the problem was resolved.

9.26 The foster mother wanted to have further information about TH's background and what was to happen to her. She asked Mr Paul Hersee and he referred to the Orkney Social Work Department but understood that there was no further information than that which was already available. The information in the pen portrait was provided for the foster mother but she found that TH was very different from the description there given. The report indicated that she was a bed-wetter, was backward at school and had not been properly cared for. But she never wet the bed while staying with the foster mother, she attended school and did well there and on her arrival at the foster home she was clean and adequately dressed. The record of bed-wetting in fact referred to a period at least a year before when the matter had been discussed and professional advice obtained. Dr Hamilton indicated at the case conference on 19th March that it had resolved and confirmed that by letter to Mrs Susan Millar on 20th March. The foster mother had no knowledge of the allegations which had been made or even that there were allegations. She was given a copy of the Place of Safety Order a few days after TH arrived. The foster mother liked to have details of a child's health and of his or her likes and dislikes. Mrs Julie Lee had told her of TH's likes and dislikes when they arrived.

9.27 TH was taken to have her medical examination on 1st March by Miss Janette Chisholm who noted the sympathetic and reassuring attitude of the foster mother to her. TH found the medical examination uncomfortable but not painful. Months later in recalling the occasion with Dr Powell she was near to and gave way to tears. She was not upset before the examination but after it was more upset than any of the other children examined by Dr MacDonald. He attributed that to the traumatic character of the day. TH got on well also with Constable Susan MacLaren. Miss Janette Chisholm found TH to be a happy and very demonstrative, child who needed to be cuddled. She quickly formed an easy relationship with her. The foster mother was concerned lest TH was anaemic and on about 11th March took her to the local general practitioner for advice.

9.28 TH started at the local school on the Monday following her arrival. Time was taken during the first few days of her stay to have her medical examination and to enable the foster mother to buy clothes for her. There was a doubt whether Orkney Islands Council wanted TH to go to school but the foster mother went ahead and arranged it. The foster mother spoke with the head teacher of the school about TH. The headteacher was a safeguarder and a member of the local children's panel. When she did start school TH settled in well, enjoyed the school and made good progress. She made a lot of friends. She was never asked any questions by her classmates about her sudden arrival but she did once explain to a neighbour's child that 'I got taken away and I do not know why'. TH ate well at the foster home and at school.

9.29 The foster mother did not turn on the television news programmes lest TH might see news of her own case and feel homesick. She did see the news that the Orkney children were to be kept in care for another three weeks but was not concerned. TH spoke of her father who had been ill and of some friends in Orkney. She occasionally mentioned her brother but seemed to have an unusually strong dislike for him. The foster mother gave her pocket money which gave her great excitement. She bought sweets on occasions and would give one to the foster mother. She went shopping with her foster mother and enjoyed doing so.

9.30 On 11th March Mr Paul Hersee visited and tried to explain to TH the grounds for referral but was not sure that she understood. She giggled and was nervous. He explained the actings described in the allegations and the parents' alleged participation. TH did not seem seriously upset by his account but this was the only occasion when Mr Hersee saw her upset to any extent. She was unaware of any appeal against the decision to remove her. Mr Hersee was there for about an hour. He later asked TH if she wanted contact with any church but she was not interested to pursue that.

9.31 The foster mother was instructed to pass on to Mrs Liz MacLean anything out of the ordinary which she noticed and she did so. She noted incidents of behaviour of a sexual character on 18th, 22nd and 25th March and passed these on to Mrs MacLean. On one occasion in the presence of the foster mother's daughter-in-law and again on another occasion in the presence of the foster mother TH enacted in play the birth of a baby. On the second occasion on which she enacted this she indicated that this time the baby would die. All this disturbed the foster mother and she reported it to Mr Hersee. On another occasion she thought that TH was indulging in certain behaviour of a sexual character and she also reported that to Mr Hersee and to Mrs Liz MacLean. On one occasion in about the third week of her stay following an item on the television about Mrs Thatcher, the then Prime Minister, TH mentioned that on Orkney they had a man who wore a dog collar called the Prime Minister. She mentioned this again in the course of conversation with Constable Susan MacLaren and then indicated that she did not like the person.

9.32 After her return home Mr and Mrs H understood from TH that she had not been happy at her placement and Mrs H raised a number of complaints through their solicitor. The solicitors wrote on 9th July and Mr Jack Goodfellow replied on 31st July. However it then appeared that TH had not given an accurate account of her stay. TH had not wanted to hurt her mother by saying that the foster mother was alright. After the facts had been discovered Mrs H wrote to the foster mother apologising for the erroneous criticisms which had been made. The reports received by the Social Work Department in Orkney during TH's stay in Highland Region suggested a considerable transformation from the unhappy picture presented in the pen portrait. Mrs H however formed the view that TH had not been happy at her foster placement. She thought that TH was more insecure as a result of her period in her placement while PH had become more aggressive.

V. JM

9.33 Mr Jack Goodfellow had decided to approach two experienced community carers to take JM. As community carers they were foster carers who had been given additional training in order to care for teenagers who might be difficult to place. They had been approved as community carers in November 1986 and had had considerable experience in fostering since then. They already had two children with them aged fourteen and fifteen and they had four grown-up children of their own. They had had no particular experience of abused children. They lived on a farm extending to some eight hundred acres and it was thought that JM would benefit from a farm placement and from the company of the other children. Coming as he did from a rural environment it was thought that such a placement might avoid the stress of his settling in a town or village. Being placed on a farm and having the opportunity to drive a tractor and do other farm chores for which he was paid was both a diversion and a benefit to JM during his stay. The foster

carers had been asked by Mr Goodfellow on 26th February to take a boy from Orkney and were told that he might have been sexually abused.

9.34 JM was told that he was to have a medical examination and felt he was not given a choice nor an explanation. He was taken by Constable Susan MacLaren to Dalneigh on 28th February at about 5.00pm to meet Mrs Liz MacLean. On the following day he was taken for his medical examination which was at 12.30pm. Dr MacDonald recalled that JM was not particularly distressed by the examination.

9.35 JM shared a room with another foster child who showed some initial jealousy but they settled down happily. There was also a question raised at the start about his having to go to church with the family on Sundays but he was told that he did not need to attend the services. He asked if there were any Quakers in the area because he was a Quaker. The foster mother replied that she did not think that there were and he agreed to come to an Episcopalian church with her.

9.36 JM, like the other children placed in the Highland Region, attended a local school. In his case it was a small school in the country and he started attending there after about a week. He enjoyed the school but did not mix very much with his classmates. The teacher there was appalled at the report she received on him from Orkney as she felt he had been given no credit for the things which he was good at and while his spelling was poor he could do much better with some encouragement. As narrated in Chapter 8 suggestions were made for alternative schooling for him and for access to him by his parents and an older sister. Various correspondence which was delivered to the Orkney Social Work Department for him was not sent to the placement.

9.37 JM's foster carers treated him with kindness and consideration. Mr and Mrs M recognised their kindness and Mrs M wrote to them after JM had returned in appreciation of the care which they had taken. JM also wrote on 10th June 1991 to say that he had enjoyed his stay with them. He got on well with them and liked them, especially the foster mother whom he knew by a nickname. He found her very supportive. He was able to talk to them about his family and his feelings and appreciated their readiness to listen to him. The house rules were similar to those to which he was used at home. He worried about his home during his stay and regretted the absence of information about his parents beyond indications that they were missing him. On Mr Jack Goodfellow's advice the foster carers sought to keep any news from him, but they did let him see one television programme about Orkney.

9.38 The foster carers found JM to be a very deep boy who never seemed to express all that he was feeling. They treated him with sensitivity and sympathy and offered themselves as a shoulder to cry on. He told them something of his family and their farm but rarely smiled. They suggested that he should treat his stay with them as a holiday on their farm and he drove around on their tractor and accompanied the foster father. He used to go away by himself for short periods to a loch on the farmland and the foster mother got the impression that he had been crying while he was there by himself. He talked to the foster carers of a quarry where he used to go swimming at home with other children and talked of dancing or playing around the quarry. In some respects they found him secretive and once when a neighbour started talking about the locality in England where JM had earlier lived he refused to talk further and appeared to be trying to hide something.

9.39 Mr Paul Hersee visited JM regularly. He found him to be reasonably happy but quite quiet and reserved. He found it hard to get JM to talk. He formed the impression that he was lazy at school but he enjoyed his placement at the farm. On 13th March he explained to him the grounds for referral and JM was upset at the explanation which he gave. It was only then that he understood that sexual abuse was suspected and what the interviews were about. On 13th March JM spoke to his foster carers of dancing in a barn and that was passed on by them to Mrs Liz MacLean as a matter of possible significance. JM found his curator nice and helpful.

VI. BT

9.40 BT's foster carers had moved from Sussex to the Highland Region in 1987. They had had some training in fostering in Sussex and had been involved in the running of a YTS scheme for emotionally deprived teenagers. The foster father had undergone training to qualify him to be a member of a Children's Panel. They had been trained and assessed as foster carers in Inverness and had been approved in February 1991. They were an outgoing couple who were considered appropriate for BT's particular needs. They first heard of BT about two days before he arrived and were given a brief outline by Mr John Burns. They were told that there was possible sexual abuse but were given no details. Mr Jack Goodfellow had been advised on 27th February by the Orkney Social Work Department that the T children were vegetarian and the foster carers were prepared to provide appropriate meals. The house was on the edge of a village and there were no other children in the household. The foster carers ran a bed and breakfast business there. The house rules were similar to those at home and he formed a favourable view of the foster carers. Although he felt trusted by them he did not feel comfortable and was very unhappy. He was distressed at being separated from his sister. The worst aspect for him was missing his parents. He kept saying to his foster mother that his parents had never done anything and he wanted to go home. He did not always sleep well and at times he cried at night. He cried in his bedroom on the night of his arrival and the foster carers let him sit with them in the kitchen for a while. He ate more than he did at home because he was lonely.

9.41 BT's foster carers asked Mr Paul Hersee for more information about the child and in particular his background, how long he would be with them and what was to be done with him. Mr Hersee telephoned to the Social Work Department in Orkney but understood that there was no further information which they could provide beyond what he already had. A regular contact was kept through Mr Lee and Mr Hersee between Mr and Mrs T and the T children, which included the arrangements for a Rabbi to visit BT at the season of Passover. On 1st March Mr Lee telephoned to Mr Jack Goodfellow to arrange for daily reports on the T children to be sent to him. Mr Lee once phoned to ask how BT was but the foster father refused to talk to him as he was not sure of his identity and referred him to Ferintosh which Mr Lee accepted was appropriate. BT was told that he could write to his parents but a letter to his parents and one to his sister were not received by them. The foster carers tried to limit his television watching as requested by his parents to nature programmes, cartoons and other programmes of that kind. He became aware of his parents' appeal against the decision of the hearing through the media and from his foster carers. He had also watched a television programme about the removal of the nine children from Orkney.

9.42 The foster carers took him shopping soon after his arrival as he had no spare clothes. He said that he was allergic to colours and only wanted grey or black. He did not appear to be interested in fashions or pop music and seemed to his foster carers to be very reserved in his tastes. He was communicative about his interests in animals and about his life in South Africa and Israel. He was very energetic, was talented at sport and was happy to play football.

9.43 BT did not like to remember his medical examination. He recalled that it was not like an examination by his own doctor and that he had been asked about his circumcision. Both the interviews and the medical examination had upset him. Early in March the foster mother took BT to the local Health Centre but found a problem in enrolling him there as she did not have all the necessary information which was required but that was sought and was obtained from Mr Lee. His parents were concerned that he and his sister had been allowed to eat things which they would not have permitted and were seriously concerned as to the effect on him of his placement. They recognised that the foster carers had been very kind and supportive and they later wrote to them a letter of appreciation. BT was able to read but was not particularly interested in reading and did not read much. His foster mother used to read to him but when the choice of *Oliver Twist* was relayed back to his parents through Mr Lee that occasioned some concern which required to be resolved.

9.44 BT attended a local school. He was happy and settled there. He was found to be about a year behind his contemporaries in his school studies. On one occasion Mr Paul Hersee visited the school and spoke with the headmistress. The school had not found the information in the pen picture useful and Mr Hersee discovered that most of the teachers found that the children bore very little relation to the information which had been provided by Orkney. BT considered his school to be untidy and was not impressed by it. He got on well with his classmates and told them nothing about himself although he did give some information to his class teacher. He took to shinty and was delighted when after scoring three goals his teacher gave him the shinty stick to keep.

9.45 On 11th March Mr Paul Hersee visited BT and explained the grounds for referral to him. BT was upset. He said he did not understand and that none of these things had happened to him. He cried when he was in bed to attract the attention of his foster carers and when they came he asked what certain words like 'ritualistic' and 'darkness' meant. On 20th March Mr Hersee again visited and told BT about the proof to be held in the Sheriff Court.

9.46 Mr T was not prepared to accept the accuracy of the records of the time which the T children had spent in foster care. He believed what he explained were the contrary accounts given by his children. His mind was still full of anger and distress at the way his son had been half carried to the plane to be taken away and his recollection of how he ran from the plane on his return home to Orkney. He understood that BT had been questioned about his circumcision, and that he had refused to speak or to make any drawings at the interviews with the RSSPCC. Mrs T had no high opinion of the ability or expertise of the interviewers; BT had referred to Constable Williamson as 'fag ash'.

VII. MT

9.47 MT's foster carers had been approved in 1977 and had about twenty-three placements since that time. All of them had been short-term placements. Initially they had taken children under five years of age but latterly had been taking children of up to ten and eleven years. Some had been physically abused and others sexually abused. The foster mother was a registered child minder. The foster carers were both vegetarians as was MT. The placement was in a small village near Inverness. Mr John Burns had contacted the foster carers about 25th February to arrange a placement for MT.

9.48 The foster mother looked after three young children during the day and a fourth child who went to school. The foster carers had four children of their own, two of whom were still at school. The youngest was an eleven year old daughter and MT shared a bedroom with her. As noted in Chapter 6.69 Mrs Mary Finn was concerned when she arrived with MT whether with her commitments the foster mother could give MT the attention she required. The placement was, as both Mrs McCarry on 27th February and later MT's curator saw it, homely, cosy and with the slightly chaotic and noisy character which is normal in a household of several small children.

9.49 Mrs Mary Finn told the foster mother that allegations of sexual abuse were being investigated and said that her impression was that MT did not like to be touched because she had not held Mrs Finn's hand when invited to do so. Mrs Finn gave the foster mother the information which had been prepared in Orkney. A question was raised as to whether MT should be allowed to have a bath before her medical examination and advice was taken on that. MT seemed to be bright and talkative but self-contained and emotionally detached. She appeared to the foster carers to be a very cool child. She was very polite and did not volunteer any information about herself. Her conversation was a mixture of adult and childish talk depending upon what she was doing. Her lack of emotion caused Mrs Susan MacLaren concern following her visit to her with her curator on 28th March and for that reason the curator returned to visit MT again on 31st March and talked with her for about half an hour.

9.50 MT found the rules of the house not dissimilar to her own and found her foster mother easy-going. She got on well with the other children in the house and found the foster sister helpful. She felt uncomfortable and sometimes cried before going to sleep. She felt trusted and was allowed to go out and play. She enjoyed going on long walks during her stay. She told Dr Powell that the foster carers took in babies during the day and she did not like the smell. There were no pets kept in the home.

9.51 Mr Paul Hersee had regular contact with MT. He found her playing well with the foster mother's daughter when he visited on 4th March. He left it to the foster mother and to MT whether she would send a card to her mother on Mother's Day and did not believe that in the event she did. Mr Paul Hersee explained the grounds for referral to her on 14th March but she was not at all interested. He understood MT to see herself as a Quaker and he had reservations about the decision which was expressed through Mr Lee that a Rabbi should visit her at Passover. The visit was however managed with the assistance of Mr Jack Goodfellow. She seemed delighted to see the Rabbi. She wrote one letter during her stay but her curator advised her that it was not allowed to be sent. She found her curator kind and straightforward and felt that only her curator and her foster carers believed her. She read in newspaper reports of her parents' appeal from the Children's Hearing.

9.52 Mr Paul Hersee and the foster carers noted some elements of MT's behaviour which were considered unusual. She preferred to wear boys clothes of a dark colour. They thought that she might be something of a tomboy. She evidenced an interest in cemeteries, was interested to point out to Mr Hersee where a goldfish had been buried and took what seemed to the foster carers a morbid interest in some dogs' graves which they took her to see. They recalled that she once stated that her father drank blood and kept it in the fridge and that when her brother had had his leg in plaster her father had drawn a devil and a rat on it.

9.53 MT attended a local school and went there with the foster carers' young daughter. MT seemed to be happy but did not enjoy it. It compared unfavorably with her school in Orkney. She considered it unhygienic and thought her fellow pupils were false friends who became unkind after a few weeks. She made out that she was staying in the area because her mother was visiting America and her father was visiting France. Her school reports were satisfactory and she settled well at the school.

9.54 MT was given her medical examination at the same place as the interviews were held. She did not recall that she was given any explanation of the purpose of the examination. It was not the usual kind which she had when she went to her family doctor and she found it upsetting. She did not want to talk about it to Dr Powell.

9.55 The foster mother found that MT did not like being touched and was not a child she could cuddle. The only time she let the foster mother touch her was when she was doing her hair. Mr and Mrs T considered that MT had been neglected by her foster mother, left on her own without books or conversation, and not helped to bathe herself or to wash her hair. They thought that she had not been properly cared for. Mrs T had no criticisms of the foster mother as an individual but felt that she was too burdened with other cares to look adequately after MT. She criticised the choice of her in respect particularly that she had several children to care for. The sharpest criticisms were directed at matters of diet, hair and fingernails. When her curator ad litem visited her on 28th March she asked MT about books, having heard from her parents that MT liked reading. MT had a book in her hand each time the curator saw her and MT told her that she had lots of books.

9.56 The foster carers were aware that MT like her brother was a vegetarian and sought to accommodate that. Mr and Mrs T were however distressed at the belief, as Mrs T described it, that MT had been stuffed with junk food. She claimed that MT had arrived home podgy and overweight, with mouth sores and requiring to visit a dentist. Mr Hersee noticed nothing amiss in her general appearance nor had he seen signs of her overeating.

9.57 Mrs T had kept a full and careful diary record which included her various meetings with Mr Lee. She had been careful to pass on to him a variety of detailed instructions for the care of her children. These were passed on to the foster carers by Mr Paul Hersee. Thus the prohibition on watching certain television programmes, on reading certain comics, instructions on cleaning ears, flossing teeth, taking vitamins and having a bath every night were passed on by him. Mrs T however expressed dismay at the state of MT's hair and fingernails on her return describing her fingernails as talons and her hair like Medusa's hair. Mr T was concerned that MT who was eight years old had had to wash her own hair. Mr Jack Goodfellow had thought that she might have been untidy but not uncared for when she returned home. He thought that her hair was clean and well cared for. The foster mother had brushed her hair for her. It seems that the very high standard of neatness which Mrs T required may not in those respects have been achieved during the placement but in the eyes of those who saw her, like Mr Hersee and Miss Janette Chisholm, she had a neat appearance with her hair tidy and in place. The foster mother had offered to wash MT's hair but she preferred to do it herself. Sometimes one or other of the foster carers' two daughters helped her with her hair, the older daughter being a hairdresser. The foster mother had also commented that MT's nails were getting too long and MT cut her nails at least once during her stay. MT's curator noticed that her nails were long but understood that MT was pleased that they were growing.

X THE CHILDREN IN STRATHCLYDE

I. The Medical Examinations

10.1 The medical examinations for the children placed in Strathclyde were carried out by Dr Charles Shepherd M.B., B.Ch., M.R.C.P., B.A.O., D.C.H., and Dr Evelyn Kirkwood B.Sc., M.B., Ch.B., F.R.C.P. at Yorkhill Hospital. As has been noted in Chapter 4.75 it had been agreed at the meeting on 21st February that Mr Philip Greene would arrange for the medical examinations to be carried out before the children were taken to their placements. Mr Greene accordingly sought agreement from the police for the use of a police surgeon and contacted Dr Shepherd at the Fred Stone Unit at Yorkhill Hospital. That special unit at Yorkhill had been set up in 1987 to minimise the number of forensic examinations which children might have to undergo. Dr Shepherd had spent four years at The Royal Hospital for Sick Children at Yorkhill and as at 27th February 1991 was a Senior Registrar in paediatrics. He had examined some of the W children in November 1990 and he agreed when Mr Greene asked him on 22nd February if he would examine certain further children who were coming to Strathclyde. He had also been asked to examine the children who were to be placed in the Highland Region but refused as Inverness was not within his area. Dr Kirkwood was a part-time Senior Lecturer in Immunology at Glasgow University and a part-time Honorary Consultant in Bacteriology and Immunology at the Western Infirmary, Glasgow. She worked from time to time as a police surgeon. She had been contacted by D.C.S Connell of Strathclyde Police on 26th February and subsequently spoke with Mr Greene on the telephone. She had not worked at Yorkhill Hospital before nor had she met Dr Shepherd.

10.2 Dr Shepherd understood that the children were Wards of Court and that he had permission for carrying out the examinations from the Director of Social Work. In order to be sure that he had the requisite permission he checked that matter again with Mr Greene. He spoke to each of the children to confirm that they were not in a state of distress such as to make him feel it inappropriate to carry out the examination. He sat down with them and asked a few general questions to help them relax and to obtain some medical information from them. He explained what was proposed and that it would not hurt them. He obtained the names and dates of birth of each of the children. He also asked each of them if they had any medical problems. EB mentioned her asthma and he told the social workers to contact the local GP.

10.3 Dr Shepherd asked each one of the children for permission to carry out the examination. Three of them agreed. EB refused at first but he again explained what he was seeking to do and the child then consented. He considered it proper to give the explanation and ask for consent a second time because the first explanation might not have been sufficiently clear. He considered that it was implicit in asking their permission that they could refuse and did not expressly tell them that. On a second refusal he would not proceed. He considered that the children were each old enough to understand and give a consent. He would not examine a child without the child's consent even if he was authorised by the court to do so. Mr Leslie Hood who accompanied SM to the unit had explained to him about the medical examination and told him that there had been no objection from his parents. That was the understanding which Mr Hood had received from Ms Fran Connor. At SM's request he came along to the medical examination with him. Constable Pamela Ross was also present.

10.4 Each of the children was examined separately by each of the doctors. Constable Ross was present behind a screen. The rectal and genital areas of the boys and the vaginal and rectal areas of the girls were examined and swabs were taken. None of the children showed distress at their examination. SB said he did

not want to be examined by a lady so Dr Kirkwood joined Constable Ross behind a screen for his examination. Dr Shepherd carried out some more general examination.

10.5 Dr Shepherd had no knowledge of the allegations beyond that they were of sexual abuse and that the allegations had come from the W children. Normally he would prefer to know the detail of the allegations and would have such further information. Dr Kirkwood knew that the children being examined had not made any allegations themselves and she considered it inappropriate to ask them about any abuse. Dr Shepherd explained to each of the children that it had been alleged that someone had hurt them in the genital areas.

10.6 The medical examinations took in all between one and one and a half hours. At the end of each examination Dr Shepherd said some such words as 'that's fine', giving an indication that the children were fit, well and healthy. It was probable that the children concluded from what was said that there was no medical evidence of abuse discovered. After the examinations had all been completed Dr Shepherd gave Mr Philip Greene a general account of the outcome. Mr Greene was disappointed when he realised that there was no medical evidence and he questioned Dr Shepherd closely about it. He became more sceptical about the ultimate success of the case which still rested solely on the stories of the W children.

10.7 Dr Shepherd and Dr Kirkwood each prepared a report of their respective findings in respect of each child. They found nothing to show that any of them were victims of sexual abuse. Dr Shepherd was asked by the Acting Reporter's solicitors on 1st April for a further report but by the time he saw the letter Sheriff Kelbie's decision had been issued and he said that he had no further comment to make. Dr Kirkwood had been used to preparing and signing a single joint report when she had examined victims of sexual assaults with another police surgeon. On this occasion they each signed their own separate reports and these were sent on to D.S. Sutherland in Orkney.

10.8 Dr Shepherd found EB's hymen to be slightly dilated. He told Constable Pamela Ross that the finding could be consistent with sexual abuse some time ago but could equally be consistent with a lively eleven year-old girl. In his report on EB he used different language to express his conclusion, indicating that the condition was not diagnostic of child sexual abuse. He indicated that if EB disclosed he could say that his findings were consistent with abuse but that view was dependant upon the condition that EB did disclose. Dr Kirkwood considered that EB's hymen was totally normal. There was also mild dilation found on WB which was recorded by Dr Shepherd but not by Dr Kirkwood.

10.9 Dr Shepherd understood that the examination would be purely for the detection of possible sexual abuse and not a general examination. It was not his practice to carry out a 'freedom from infection' examination except in the case of someone who was his patient. The unit in which he was working carried out such specialised examinations on behalf of the police or the Social Work Department in many cases other than those where children were coming into care. Dr Shepherd regarded a 'freedom from infection' examination as a totally different examination from that which he carried out and as something which should usually be done by a general practitioner. He considered that there was a disadvantage in having a 'freedom from infection' examination at the same time because the examination for abuse being a traumatic examination should be managed as quickly as possible.

10.10 Mr Philip Greene did not ask for a more full or general examination than usual either when arranging the medicals or when on 27th February he attended himself at the hospital. He had a full discussion with Dr Shepherd both before and after the examinations. Mr Greene had been concerned before with the special unit in Yorkhill and had been involved in the discussions which led to its creation. He would be expected to know that unless a full general examination was specified only a special examination for abuse would be carried out and not a 'freedom from infection' examination. He did not discuss the matter of a 'Reception into Care' examination or a general examination for 'freedom from infection' with Dr Shepherd but assumed that such a general examination would be included. Dr Shepherd had not carried out a complete examination of the children for the

purpose of assessing their general health at the point of being taken into care. However, as appeared from the reports made by Dr Kirkwood, she had made a general physical examination so that a general appraisal of the children's physical appearance and condition had been made.

10.11 Orkney Islands Council wanted documentary evidence that examinations for 'freedom from infection' had been carried out. Mrs Susan Brown was aware that Mrs Susan Millar wished the children to be so examined and she herself thought that they should be examined in that way for the protection of the foster carers and to see that they were not suffering any infectious disease. She also had concern about EB's asthma and SB's teeth. There followed a period of confused instructions and advice. Mrs Brown understood from Mr Greene that a full examination had been carried out. However when she contacted Dr Shepherd he was not prepared to sign Reception into Care medical forms. Mrs Brown ascertained when she contacted Dr Shepherd that a full examination had not been carried out and she accordingly then sought to have the children given a general medical examination. Mr Greene however still believed that Dr Shepherd had carried out a full examination. He discussed the position with Mr Ian Gilmour and they both took the view that a further medical examination would be abusive on the basis that a full general examination had already been carried out.

10.12 Mr Lee raised the matter with Mr Ian Gilmour who replied on 12th March stating in that connection that pre-admission medicals had been carried out as well as forensic examinations. Only later did Mr Gilmour realise that there was a problem but he still believed that the problem was that Dr Shepherd was not prepared to sign certificates retrospectively and not that Dr Shepherd had not carried out the pre-admission examination. Mrs Brown was told by Mr Sandy Fraser that Mr Ian Gilmour had stated that the children were not to have further medical examination on the grounds that they had already, as he believed, been medically examined. He asked Mr Philip Greene to ask Dr Shepherd to send a letter to the effect that the children had been examined. But Mr Greene then found out that Dr Shepherd was not prepared to sign anything. Mrs Brown then obtained the medical forms from the Social Work Department having consulted Mr Sandy Fraser gave them to the foster carers asking them to make local appointments for medical examinations. That gave rise to complaints by the foster carers to Ms Jackie Wallace, and Mrs Brown then understood that the foster carers had been advised that the children should not be taken to medical examination.

10.13 Eventually the management in Strathclyde accepted that if Orkney Islands Council required medical examinations, that should be arranged. Although their view had been expressed as an instruction the position was, as Mr Gilmour stated, that they could not stop Orkney instructing medicals even although Strathclyde considered them inappropriate. Eventually EB and SB were medically examined by a general practitioner. WB was considered old enough to choose and she preferred not to be examined. SM also refused. Mrs Brown spent a considerable time between 13th and 22nd March endeavouring to resolve the situation. The whole episode reflected both the lack of clarity in the relationship between the two local authorities and a failure in clear communication.

II. The Management

(A) THE PLACEMENTS OF THE B CHILDREN

10.14 Early in the week following Mr Lee's request for placements there were further communications between Mr Lee and Mr Ian Gilmour of Strathclyde Region. The latter then understood that the children were nine in number and he was given details of their age and sex. Mr Gilmour understood that places for a fifteen year old and his brother and for three children of another family were required in Strathclyde and he had some discussion with Mr Lee about the separation of them. Mr Lee was wanting separate placements for all the children. On about 18th February Mr Philip Greene approached the Family Finding Section in Strathclyde Region to seek out placements for the children. Consideration was then given to finding appropriate foster care for the three B children by Mrs Gwendoline Hamilton who since 1988 had been a senior social worker at the

Family Finding Centre in Glasgow. She was approached by her line manager, Mrs Sandra Paterson, and together they discussed the matter. One foster carer was identified initially for the three children. It was then understood that the boy should be separately placed and at a later stage a separate foster carer for SB was selected by Mrs Paterson. It was understood by Mr Greene that the Orkney management agreed that the two girls should be placed together but he understood that the management changed its mind about that after the children arrived. Both of the foster carers were emergency foster carers.

10.15 The placements selected for the B children were within the Glasgow conurbation and in a setting different both geographically and socially from their home in a rural setting in the island of South Ronaldsay. These considerations caused Mrs Hamilton some concern. But the skills of the particular foster carers were such that it was thought that the advantages of this care were such as an assessment of all the considerations made the placements the most appropriate. The children were referred to by pseudonyms in the administration and financial documentation to secure confidentiality. The placements were, moreover, sufficiently near to Strathaven to enable access to the RSSPCC premises there for interviews. Notes about the foster carers were prepared and sent to Orkney on 26th February. The notes included the current addresses of the foster carers and their telephone numbers. They also disclosed that each had a dog. A fax was also sent to Orkney at the same time with some information about Geilsland School. The notes were considered by the management in Orkney but did not play any part in any selection by them of the placements as these were the only placements offered. Mr Lee left it to Mrs Susan Millar to pass the details on to the particular social workers dealing with the particular children concerned.

(B) THE ROLE OF THE FOSTER
CARERS

10.16 As the management in Strathclyde saw it the foster carers were being loaned to Orkney Islands Council. They were transferred to Orkney for the period and accountable to them and under their supervision. But they still had their own link-worker in Strathclyde so that their usual contacts were maintained. The precise working out of the relationships was not discussed before the children came into care and the position was less clear to the foster carers in the absence for the first few days of any obvious representative of Orkney Social Work Department whom they could contact.

10.17 Foster carers in Strathclyde were trained to facilitate discussion with the children but not to pressurise them. It was their practice to note down anything that was said of significance and either follow it up or leave it as seemed appropriate in the circumstances. Both the foster mothers concerned with the B children had experience with sexually abused children, were used to being an integral part of the team which was planning further work with the children and would normally receive some feedback from interview with the child to help in their care of the child. They were used to listening to anything a child might say about abuse and relating that to the professionals who were dealing with the case. They were used to being involved in child care reviews. It was assumed that the work required of them in the present case would be no different. But in this case there were no such reviews and the foster carers felt that there was little or no feedback to them from the RSSPCC about what had happened at interviews. The regime was different from the usual in these two respects and in the event the foster mothers felt de-skilled and reduced to the role of mere child minders.

10.18 WB and EB's foster mother was particularly concerned about the absence as she saw it of any feedback from the RSSPCC. She usually took a positive role in the work which was being done with the child, with information passing from her to other workers and back and with her active participation in discussions about the child's management, attending interviews with the child and enabling the child to tell her anything. She felt she received no response from the RSSPCC workers although she passed on information to them about anything significant relating to the girls, such as EB speaking of bullying at school and both girls' enjoyment of horror films. She did not recall being given information about the RSSPCC having a policy about not wishing any background information from carers. Nor did she feel that the interview methods had been shared with her. She

recalled, when indicating concern about the way the girls were being interviewed, that Miss Lindsey Stevenson had told her that the girls had a slanted view.

10.19 SB's foster mother was also used to being involved as an integral member of a team caring for a foster child and planning for the child's future care. In the case of SB she found that she was given no feedback from the RSSPCC in response to the information which she passed on to them. She had not been warned that her role would be different from the normal and she felt that if she had been involved in the interviewing it would have made it easier for someone to have put her concern about SB's behaviour into context. There was no freely flowing communication between the foster carers and the RSSPCC.

10.20 One particular difficulty which the foster carers in Strathclyde found was the absence of any social worker allocated to the children. It had been Mrs Susan Millar's intention that the co-ordinator would take on the social work tasks with the children as part of her responsibility but that was evidently not made plain to the foster carers. Mrs Susan Millar understood that decisions would be made between Mrs Susan Brown and Mr Philip Greene with advice from the RSSPCC and that these would be passed down to the foster carers by Mrs Susan Brown. But the lines of communication were too long and complex for information to be quickly sent or received. It was not made sufficiently clear to the foster carers that their own role was to be simply one of looking after the children. The problem of communication was exacerbated by the wide variety of topics on which the foster carers wanted advice.

10.21 In the ordinary course the foster mothers would look to their own link-worker for advice on matters relating primarily to themselves and to a specific social worker allocated to the child for advice on matters relating primarily to the child. In the case of the B children, while the link-worker was there to support the foster carers there was some obscurity about the identity of the person who was taking the role of social worker for the children. SB's foster mother initially went through the Family Finding Centre assuming that that was the appropriate route. Later when the co-ordinator was appointed she understood that it was to her that any problem should be taken. But, failing her, she would take the matter up with Miss Lindsey Stevenson, although she felt she was inadequately informed about her role and about the work of the RSSPCC. Mr Philip Greene tried to assist with the foster carers' concerns in the early days of the placement but with hindsight he recognised that this added another person in the chain of communication which may have been confusing. The situation was further complicated by Miss Stevenson taking over temporarily from Mrs Susan Brown while the latter was away and by Miss Stevenson's observation, as understood by Ms Jackie Wallace, that the RSSPCC 'worked blind'.

10.22 EB and WB's foster mother also felt the absence of any social worker allocated specifically to those children in contrast with the normal practice in an ordinary Strathclyde placement. She would have expected to work along with that social worker, passing information to that worker about the child and the child's behaviour and discussing plans for the child's management. She did not see Mrs Susan Brown as performing that role. Indeed, Mrs Gwendoline Hamilton did not understand that that was a part of Mrs Susan Brown's role. It seemed as if Miss Lindsey Stevenson had that role as she had come with the children and had returned to visit them the next day, but it was not expressly stated who was the particular social worker concerned with the children and Miss Stevenson's lack of willingness to discuss the children's progress with the foster mothers did not accord with her being the allocated children's social worker. To the extent that the usual procedure in Strathclyde depended upon the presence of a child's social worker the procedure could not and did not operate as it might otherwise have done. The line of communication both to the foster carers and to the children remained obscure. Neither the foster carers nor Mrs Hamilton were confident whether it was through Mr Greene or Mrs Brown that they were to communicate with Orkney.

10.23 The foster carers were concerned about the extent of press coverage of the removal of the children. They realised that the children should not see the papers, nor watch television. They were anxious that they might be identified as

carers of some of the Orkney children and be subjected to the attentions of the media. This anxiety on their part and the general consciousness of the intense media interest added to the difficulties of an unusual placement.

(C) THE CO-ORDINATOR **10.24** Mrs Susan Brown had been asked to work for three days each week on a short-term basis co-ordinating the welfare of the children. It was understood from the outset that she would require to be away from 25th March to 2nd April. Her first active involvement in Strathclyde Region was on 6th March. On that date she attended two meetings in Strathclyde and Mrs Susan Millar introduced her to the RSSPCC workers. On 7th March she had a further discussion of the case with Mrs Millar and learned something of the background history of the W family. Mrs Millar sought to explain to Mrs Brown what her responsibilities were and Mrs Brown was also given copies of the pen portraits.

10.25 Mrs Susan Brown understood that her work comprised co-ordinating the welfare of the children and seeing that their placements were satisfactory. She saw herself as the social worker to the children but unlike the usual case there was little she could organise for them or do with them and she had no involvement with the parents. But although he felt some uncertainty about the precise position Mr Philip Greene saw Mrs Brown as having the function of a link-worker for the foster carers as well as social worker for the children. When Mrs Brown started she found the position different from what she had expected. She did not anticipate that the children were not at school, that there were no RIC forms, no background reports and no medical consents by the parents. She felt that it would have been better if she had been in post before the children came into care. She did not see the warrants for the continued detention of the children and although she asked for copies of them they did not reach her. She was not asked to review the matter of access.

10.26 Mrs Susan Brown lived in Edinburgh but was given a base at the RSSPCC premises at Strathaven where the children were being interviewed. This had been decided by Mrs Liz MacLean and Mrs Susan Millar. It would have been easier for Mrs Brown to have had office accommodation in Glasgow. The accommodation at Strathaven was not suitable for her. She used whatever desk was free and sometimes had to work in the kitchen. Working from Strathaven in some way distanced her from the Strathclyde Social Work Department with whom particularly she should have been co-ordinating. Furthermore it was the more difficult for someone not a member either of the Strathclyde staff or of the Orkney staff and so to an extent a stranger to both to act effectively as a link between them.

10.27 Mrs Susan Brown recognised Mr Philip Greene as her point of contact with the Strathclyde Social Work Department, or failing him Mr Sandy Fraser. But neither of them had the authority to make decisions. Mrs Gwendoline Hamilton and Ms Jackie Wallace were points of contact in connection with the foster carers. Mr Greene's role was not clearly defined. He acted in a co-ordinating position at the outset at least until Mrs Brown's arrival. After her arrival he understood that she was the case co-ordinator for Orkney but that he was the case co-ordinator for Strathclyde, being the point of contact on the side of Strathclyde Region for Orkney so that questions from Orkney would come to him and questions from Strathclyde would come through him. He took in the event an active role in three areas, one in relation to the medical examinations which he had some hand in organising, one in relation to transport where he organised transport to and from the airport on the arrival and departure of the children as well as some of the transporting of the children to Strathaven for interviews, and the third in relation to the matter of the education of the children. But there was no clear designation of the nature or extent of his duties with regard to the Orkney children and the part which he played was substantially on his own initiative rather than in accordance with any comprehensive plan.

10.28 As mentioned in Chapter 7.13 Mr Sloan passed notification of the grounds for referral and other intimations about the Children's Hearing to the Social Work Department for onward transmission to the children. On 8th March Mr Lee forwarded the various forms to Mrs Susan Brown together with a letter from Mr Sloan explaining the position and asked her to see that that was explained to WB,

EB, SB and SM. Mrs Brown however took the view that it was for the Reporter or the Children's Hearing to explain the grounds and not for her. It was inappropriate for the children's social worker to do this and it was contrary to the principle of not putting ideas into the children's heads. She accordingly put the documents back in their envelope and thereafter forgot all about them. None of the forms thus reached any of the children in Strathclyde. On 15th March Mr Lee asked Mrs Brown to give the results of the hearing and intimation of the proof for 3rd April to the children. The documents were however not delivered to them. She did however explain the details of the proof to be held in the Sheriff Court to SM.

10.29 On 12th April, following on an inquiry made by the parents' law agents about intimation of the grounds for referral, Mr Sloan wrote to Mr Lee asking for confirmation that the various documents which he had sent had been received and on 24th April Mr Lee replied confirming his understanding that the documents had been sent to the co-ordinators and that the co-ordinators had explained them to the children except that in the case of the B children an explanation about the extension of the warrants and the arrangements for the proof had been given by the foster carers, which was Mrs Brown's understanding of the position.

10.30 While Mrs Brown was very happy with SB's placement she had very considerable concerns about the placement of W and EB because of the inability of their foster carer as she saw it to adapt to the particular requirements of the case. In her later report she described the girls' foster carer as a single lady in a somewhat deprived area of Glasgow. Her anxiety was that the foster carer's lack of confidence in the approach taken by the RSSPCC to their interview work could be ascertained by the girls and that that would undermine the work which the RSSPCC were trying to do. Mrs Brown sought to explain to the foster carer that she should not try to elicit information herself and she had a concern that the foster carer was questioning the girls herself after their interviews. At a meeting on 13th March the girls' foster carer had heard Mrs Hamilton and Ms Wallace say that they did not agree with the RSSPCC's method and that the investigation should have been done by Strathclyde and that may well have increased the foster carer's own concern. Mrs Brown started to look for an alternative placement for the girls and regarded this as the most urgent problem which she had. Ideally she wanted to move both the girls but hoped at least to move one of them. Beyond that she was concerned to secure the easy management of the interviews, to alleviate pressure on the foster carers and to secure the medical examinations of the children. The priority given to these matters prevented her spending time with the children and the foster carers at their homes.

10.31 Mrs Susan Brown phoned Geilsland School on 7th March and visited the school on 12th March. She also spoke to SM on the telephone. She took up the matter of SM's personal belongings, the Mother's Day card, his school work, the possibility of finding a tutor, and the medical report forms. On 12th March she met SM who was quite guarded with her. They talked of the grounds of referral which SM had seen from the newspapers and she explained fully the process relating to proof hearings. SM regarded the allegations as ridiculous and saw the action of the Social Work Department as a kind of vendetta against his family. Mr Mair had sympathy for Mrs Brown seeing her as a go-between the parents, the Orkney Council and Geilsland School and not in a position to make clear executive decisions.

10.32 Mrs Susan Brown had wanted to visit the foster carers soon after her appointment and sought to contact them to arrange a meeting. However she was informed by Ms Jackie Wallace or possibly Mrs Gwendoline Hamilton that she should first see Ms Wallace, their link-worker. She checked with a manager in Strathclyde and was told that it was not contrary to Strathclyde's policy to contact the foster carers without involving the link-worker. Mr Greene confirmed in his evidence that Mrs Brown would have been free to contact them. However it came about, Mrs Brown was clearly discouraged from approaching the foster carers direct and certainly understood that she was not to visit them before meeting Ms Wallace and Mrs Hamilton. A meeting was accordingly arranged for 11th March, but had to be rearranged for the 13th. Mrs Brown was able to see the B girls on 11th March and 13th March at Strathaven and their foster carer together with Ms

Wallace and Mrs Hamilton on the latter date. On that same day she also met SB and SB's foster mother, again with Ms Wallace and Mrs Hamilton. She regularly saw the children at Strathaven, but did not have time to visit them in their placements.

10.33 While Mrs Susan Brown endeavoured to progress matters along the lines which she understood were desired by Orkney Islands Council there was a reluctance in Strathclyde to act on her initiatives. On 6th March Mrs Susan Millar had noted that the foster carers should be discouraged from sharing notes on the children. With a view to achieving this Mrs Brown on 7th March indicated to Mrs Hamilton that there should be no contact between the two foster mothers, that she was expecting to be supplied with a vodaphone by Orkney Islands Council so that the foster carers could make direct contact with her at any time. She also indicated that separate placements should be arranged for EB and WB. Mrs Hamilton, however, disagreed with these suggestions and the matters were simply left unresolved. Mrs Hamilton felt that it was inappropriate to prevent contact between the foster mothers as they were friends and could support each other. She told Mrs Brown that no other placements were available to enable EB and WB to be separated and advised Mrs Brown to contact Mr Greene.

10.34 The first Mrs Susan Brown heard of the curators was when the foster carers contacted her to ask them what they should do. She never saw the interlocuter appointing them. After the appointment of the curators Mrs Brown became involved in lengthy discussions with a view to meeting their requirements for access and interview for themselves, their agents and for the psychologists appointed by them. She had discussions with Mrs Susan McLaren, the psychologist appointed by the curator to the B children, and arranged for her to watch and listen to one of the RSSPCC interviews. Mrs McLaren attended some interviews of the children on 20th March to form a view of the quality of the interviewing.

10.35 On 19th March Mrs Susan Brown flew to Orkney for the case conference on that day which was followed by a meeting of the co-ordinators, namely herself, Mr Hersee and Miss Janette Chisholm with Mrs Susan Millar and Mr Lee. There was discussion then about the gifts which were being sent to the children, about a new placement for the B girls, about the curators and about the problem of multiple interviewing of the children. Mention was made of the advice which had been received from Dr Kusumakar that the curators' psychologists should examine the transcripts, should observe the children being interviewed and only interview them themselves if they were unhappy about the methods of interviewing.

10.36 Mrs Brown found considerable difficulties in carrying out her task. She found that there was uncertainty about where responsibilities lay. She sensed an ill feeling between the Orkney Islands Council and Strathclyde Region in which the latter seemed to be criticising and questioning decisions by the former. She never felt that she was in charge and felt that she was regarded in Strathclyde with mistrust or even hostility. She was aware of an intense anxiety that nothing was to be done which might influence the children in what they did or said. She would have welcomed more discussion with the Orkney Social Work Department management to ensure that the policies for the management of the children were uniform and clear. She made no criticism of individuals, but rather criticised the inability of the existing system in Strathclyde to respond to an unusual situation. She considered that it would have been easier if the co-ordinator had been found within Strathclyde so that the person would not have been an outsider and would have been familiar with the prevailing procedures there.

10.37 It had been agreed from the outset that Mrs Brown would be abroad from 23rd March until 2nd April. There was discussion with the Orkney Social Work Department and with the foster carers to the effect that Miss Lindsey Stevenson would stand in for the period of her absence but no clear arrangement was made for the taking over of her duties while she was away. It was thought by some that Miss Stevenson was acting as the co-ordinator. Mrs Brown thought that having discussed the matter with her Miss Stevenson was taking on the functions which she had been performing. However Miss Stevenson did not understand that she was to take over the post of co-ordinator but rather that there were a few specific responsibilities left to her while Mrs Brown was away. She believed that

she was not required to take over all Mrs Brown's duties and she only took on the arrangements for transport for the children. By the time Mrs Brown returned the main preoccupation was with the arrangements for the proof in the Sheriff Court in Inverness and then with the return of the children. She visited SB's foster mother on 5th April and was concerned to learn of her distress about the propriety of his being returned home. A considerable quantity of mail which had been forwarded to her for distribution was awaiting her on her return home.

(D) MEETINGS **10.38** It might have been thought that a direct meeting with someone from Orkney Islands Council would have resolved any difficulty but that was not found to be the case. On 6th March Mrs Susan Millar had a meeting in Glasgow with Mrs Susan Brown, Mr Sam McTaggart, Mrs Liz MacLean and Mr Philip Greene. Mrs Hamilton did not know that Mrs Susan Millar had come to Glasgow, nor that she had had a discussion with Mr Greene which by itself may reflect the lack of internal communication within the Strathclyde management. Mr Greene had however had a meeting with Mrs Hamilton together with the two foster carers and Ms Jackie Wallace on the day before and had made notes of matters to be raised and discussed at the meeting on 6th March. This meeting was not the usual kind of review meeting to which the foster carers were accustomed and did not provide them with all the information which they felt they required.

10.39 Some arrangement was made for a further meeting but there was some uncertainty about the date for it. Mr Greene erroneously believed that a meeting was planned for 12th or 14th March. It had been intended to hold a further meeting on 20th March at the RSSPCC's premises in Annfield Place but owing to a lack of attendance that meeting was cancelled. Mr Greene recalled going twice to Annfield Place in vain.

10.40 At the meeting on 6th March Mrs Susan Millar understood that there was a problem of the foster carers exchanging views about the B children. There was some discussion on a number of particular matters relating to the children, such as SM's personal possessions, education, the splitting of the B girls, the matter of transportation to Strathaven, inter-sibling access and SB's teeth. Mr Greene also raised a question about having a full dental check which he related to the possibility of ritual abuse, although that was a term which Mrs Susan Millar was anxious to avoid. Mr Greene also requested copies of the Place of Safety Orders and the warrants. They eventually arrived but only two days before the children returned. The various matters of difficulty or concern which the foster carers had raised with Mr Greene were presented to the meeting. Some of these were resolved but others were taken forward to a meeting between Mrs Susan Brown, Mrs Gwendoline Hamilton and the foster carers on 13th March. The absence of any clear mechanism for an efficient resolution of the problems however resulted in some of them remaining unresolved for the whole period of the children's stay.

(E) EDUCATION **10.41** During their stay in Glasgow none of the B children attended school. That was contrary to the usual routine and gave the foster carers no leisure during the daytime. It also deprived the children of the opportunity to meet other children and take part in games and other activities with them. The matter was one of ongoing discussion and concern by the foster carers and others during the course of the children's stay in Strathclyde. Each of the foster carers raised the matter with the Social Work Department on 5th March. SB's foster carer was told by Mrs Susan Brown that he was not to attend school because of his accent and the risk of media publicity. The foster mother was not persuaded that the local school, which was a small school in a local community, would cause any problem for a boy coming from a rural environment. She would have taken him there and back and did not believe that he would have been exposed to newspaper or television reporting there. She did not think that such accent as he had would cause comment and SB was happy to say that he came from Aberdeen.

10.42 At the meeting on 6th March Mrs Susan Millar expressed the view that the children should attend local schools but, as she recalled it, Mr Philip Greene said that that would be inappropriate as their identity would be disclosed. Mr Greene however recalled that his view was that the children should attend school

but he understood that Orkney Islands Council did not want the children to do so. Mrs Brown understood that there had been a tacit agreement at the meeting that local schools should not be used, that the employment of tutors was necessary and that they should be engaged immediately. Her own view was that the children should not attend school partly because of the number of interviews they had to attend at Strathaven. Certainly Mr Greene left the meeting understanding that tutors were required for the B children but that had not been what Mrs Susan Millar intended. She thought that it had been agreed that they would be placed at schools and that if a problem arose it had been agreed that Orkney would pay for auxiliary teachers to support the children in primary schools. She was not informed that nothing had been arranged and she was unaware of the interruption in the course of the children's education. Thus no common view was in the event reached and no clear basis for action. Mr Greene made some initial enquiries from the Education Department about tutors and then at his own hand took the matter no further. He believed that the children would not be long remaining with their foster carers and would be removed elsewhere. However he did not inform Mrs Brown nor the Orkney Islands Council that he was not pursuing the matter.

10.43 Schooling was again discussed on 13th March between the girls' foster carer, Mrs Susan Brown and Ms Jackie Wallace. Mrs Brown advised that a tutor would be appointed. WB was at this time concerned about the making of a choice of subjects for her further study at her own school. Mrs Brown made some effort to obtain tutors for the children, and believed that Mr Greene was pursuing the matter. The girls' foster carer raised with Ms Wallace her concern that no resolution had been achieved but Ms Wallace could not give a decision and the matter was left hanging.

10.44 It had been Mr Lee's intention that the children should attend school, that the schools they attended should be in contact with the schools which they had attended in Orkney and that homework assignments should be sent to them. Mrs B had sought to impress on him that continuity of school work was important particularly for SB. Mr Lee was not aware for two or three weeks that a problem had arisen. For some period it was evidently assumed in Orkney that tutors had been appointed although Mr Lee understood that there was a difficulty in finding tutors and at one stage he spoke to Mr Sandy Fraser on the telephone and asked him to expedite the finding of tutors. Mrs Susan Brown tried to have work sent from Orkney and she made several requests to the Director of Education of Orkney Islands Council to have work sent including a request on the occasion of her visit to Orkney on 19th March. Some school work eventually came for SM but not all that was required. None came for the B children. Somewhat belatedly on 28th March Mr Lee asked for some educational material to be sent to Mrs Brown for WB and on 29th March a parcel of books was sent on for all the three B children after Mrs Michelle Miller had pressed for them. The books were not received by the children in Strathclyde. On 28th March Mr Lee asked Mr Sandy Fraser why the B children were not at school. Mr Fraser replied that Mrs Brown had told Mr Greene that it was for reasons of confidentiality. Mr Lee agreed with Mr Fraser that they should be going to school, but at that stage there was not much that could be done. In Strathclyde as Mrs Susan Millar described it there was no meeting of minds on the education of the B children. In the event the attempts to preserve a continuity of schooling for the three B children broke down.

(F) THE SUPPORT FOR THE
FOSTER CARERS

10.45 SB's foster mother and W and EB's foster mother were acquainted with each other before the children arrived. After they had arrived the two foster mothers kept in regular telephone contact with each other. W and EB's foster mother found this a source of support although SB's foster mother preferred to rely on her link-worker and the Family Finding Centre. They spoke about the restraints on newspapers and television, on every day matters and what they each were doing. They did not discuss anything of what the children were saying nor did they discuss whether or not the children were making disclosures or the extent of any disclosure. A concern was felt from an early stage that the two foster mothers were exchanging notes with each other on the respective children, which

Mrs Susan Millar described as 'active cross-referencing', and were using information obtained from the one source to put pressure on the children in the other placement. It was thought in particular by Mrs Susan Brown that W and EB's foster mother was 'pumping' the girls for information and was cutting across the work entrusted to the RSSPCC. The source of this anxiety remained obscure but it may have been exaggerated.

10.46 The matter was raised on 8th March with Mrs Gwendoline Hamilton who saw it as a matter for further discussion. On 11th March Mrs Susan Brown told Mrs Hamilton that she wanted there to be no further contact between the foster mothers but Mrs Hamilton disagreed with that on the grounds that the foster mothers needed mutual support. The matter was again left for subsequent discussion. On 13th March Mrs Susan Brown again requested that contact cease. As she saw it W and EB's foster mother was relying on SB's foster mother and was not giving a correspondingly equal support. The matter was still however left open. The matter was again raised on 18th March when Mrs Hamilton took the view that the foster mothers were requiring informal support and she would encourage that. Her view was that she could not prevent the foster mothers having contact with each other. The matter was not resolved until Mrs Hamilton went on holiday between 25th and 29th March. During that period a request was made again and on 25th March a clear instruction was given that there be no contact between the foster mothers. After that request the two foster mothers ceased to telephone to each other and contact between them had stopped by the time Mrs Hamilton had returned from holiday.

10.47 While SB's foster mother adapted herself to the unusual task required of her the girls' foster mother had greater difficulty with the complexities of the situation. While her personal dedication was unquestioned she lacked any sufficient family support and her ability to cope was reduced by the lack of people with whom she could share ideas and who could have helped her to deal with the concerns which arose. The task became the more onerous for her on account of the fact that the children were not at school and the fact that she was not part of a child care team as she was accustomed to be. She had difficulty in understanding the task required of her and the role undertaken by the RSSPCC. While she was highly experienced and successful in the cases which had passed through her hands, and undoubtedly a very caring person, her selection for the quite unusual responsibility involved in the present case was not wholly appropriate. Despite attempts to explain the approach of the RSSPCC and the reason for the interviews her relationship with them did not improve. She did not seem able to appreciate that going over with the children what had been said at interviews could influence their later evidence.

10.48 Despite the unusual nature of the roles required of them and the difficulties in communication the foster mothers were able to care for the children to a satisfactory standard. They were both ladies with strong feelings of concern and interest in their foster children and despite the lack of clarity in the identification of the child's social worker which they had they managed their respective responsibilities efficiently and well.

III. SB

10.49 SB's foster mother had worked for three years as an emergency foster carer and had experience of sexually abused children. SB arrived with Mr Philip Greene and Miss Lynn Drever with only the clothes which he was wearing, a white plastic toy, sweets and an electrical game. Miss Drever saw SB settled in at the house where the foster mother and her husband stayed. She told the foster mother that SB would be with her for seven days but there was no long discussion. The foster mother was told that SB had had a long journey and she asked whether he had had anything to eat. SB was excited, asking his foster mother a lot of questions including what video films she had. Mr Greene and Miss Lynn Drever left together and seemed to the foster mother to be in a hurry. They had however stayed some forty or forty-five minutes and there had been a sufficient time to

achieve a suitable hand-over of the child and to pass on any information which they had. The foster mother understood from Mr Greene and Miss Drever that SB had undergone what she assumed was the normal medical examination for a child entering a foster placement. The complications which ensued on that matter have been noted earlier in this Chapter.

10.50 SB's foster carers had two boys aged eight and thirteen and two daughters of six and fifteen. They also had a seven year old foster girl. SB joined in with them and got on well with them apart from normal squabbles. He was accepted into the games which they played. He had a bedroom to himself and slept well. He ate everything that was put before him. He was fit and healthy. During the time that he was not involved in the interviews at Strathaven he would play in the garden at the back of the house or go swimming with the whole family, or to the cinema. He went out shopping with the foster carers and he watched TV. He took part in all the normal family activities and joined them in visiting their relatives. There was a babysitter who looked after him when the foster mother had to be away and he became very fond of her. There was a local shop nearby across the road and SB told his mother that he was allowed to go there alone. His foster mother said that in fact he did not go there alone so far as she was aware and that her oldest son or her other son would go with him. She said that he was also accompanied when he went to the ice cream van which parked nearby.

10.51 SB was extremely careful about being clean to a degree which seemed to his foster mother to be unusual. He was constantly washing. He seemed to be quite happy, was very fond of his foster father and had a good relationship with his foster mother although he felt that at times she was too strict. He felt homesick at times and cried a little at night. His foster mother noticed that he was missing his family and she told that to the workers at Strathaven but she did not find them forthcoming in conversation and she assumed that they had taken note of what she told them. Mrs B's view was that SB desperately needed contact with home and that some contact would have alleviated his stress. SB never asked to attend church although he did raise the matter of religion with his foster mother and at one time told her that he was a Quaker. The foster carer had a fifteen year old sheepdog which was house-trained. SB told his mother that the dog had wetted the floor and she was concerned about that. The foster mother did not know of any such incident but she recalled that the children liked the dog and SB in particular was fond of it and their pet cat.

10.52 SB's foster mother was given little information about SB or the circumstances which had led to his coming into her care. She had been told on 26th February that the child coming was a girl. On 27th February she was told that it would be a boy and that he might have been sexually abusing his sisters. Only from the media did she later discover that this was incorrect. She knew that SB was coming from Orkney but not that he was one of several children being removed. She was not told that the children were being placed separately and were not to have access to each other. She learned of his sisters from one of the social workers when SB arrived. She was given a copy of the Place of Safety Order and the pen portrait of SB. She was not concerned at not knowing the grounds on which he had been taken from home although it was usual for her to be told. She found the information in the pen portrait was adequate for looking after him and did not really want more. She was not given the grounds for referral nor did she receive copies of the renewals of the warrants.

10.53 As in the case of W and EB's foster mother there was no review meeting held within the first seven days as was the usual practice in Strathclyde. But on 5th March there was a meeting held at the Social Work Department at which the foster mother was given an opportunity to raise the questions which would have been raised at a normal review meeting. There was however no representative of Orkney Islands Council present. Mr Philip Greene saw the occasion as one for alerting him to the matters which he should raise at the meeting on 6th March at which Mrs Susan Millar would be present. At that stage the foster mother learned that the twenty-one day warrant had been granted and a number of matters were discussed. Unlike the usual child care review meeting no decisions could

be made about the future management of the child since the eventual control lay with Orkney Islands Council.

10.54 SB's foster mother did not learn at once of the confidentiality which was to surround the child, but was told of this by the Family Finding Centre during the first few days. She was told that SB was to see no newspapers and no news on the television and this was accordingly achieved although once the television had to be turned off having accidentally been left on. She found the media coverage stressful.

10.55 SB's foster mother understood from the social workers on 27th February that SB could have regular contact with his sisters and on the evening of the 27th she let him talk to his sisters on the telephone. SB was happy to have such contact with them. The intention was to ring again in about two days time but on 28th February the foster mother was told by Miss Lindsey Stevenson that there was to be no contact between the siblings and accordingly no more telephone calls were made between them. The instruction was later repeated by Mrs Susan Brown. SB could not understand why he was not allowed to talk again to his sisters when he had been able to on the one occasion. He was quite sad about it and the foster mother had difficulty in explaining the matter to him. She expressed her concern about the effect it had on him to Miss Stevenson. She had been by the telephone as he spoke and she saw no problem in the contact he had with his sisters even although she had been given to understand that he might have been abusing them. But she was prepared to be guided by the advice of the professionals.

10.56 Early on 3rd March Mr Paul Lee rang SB's foster mother. She was not expecting the call and was unsure at first who it was that was telephoning. Mr Lee reassured her as to who he was and asked how SB had settled. She replied that he had been drawing pictures and was fine. He told her that the children were not to be allowed to see newspapers or television and asked her to ask Miss Lindsey Stevenson to pass a message about whether another child who was in a children's home should see the newspapers or television. He gave her his own home telephone number if she should wish it and told her to ring him if she had any problems. The foster mother once rang him to raise her concern about there being no schooling provided for SB but on hearing his answering machine did not leave a message.

10.57 SB wanted to write a card to his mother and to his sisters. He asked his foster mother if he could and she contacted Mrs Susan Brown and Miss Lindsey Stevenson and the Family Finding Centre. Conflicting advice was received but on the strength of an indication from Mrs Brown that he could write he started to do so. Then Mrs Brown telephoned to say that he could not and Miss Stevenson expressed concern about the risk of his using trigger words, by which was meant words which had a special significance to the sender and recipient. In the event SB having started to write found he had nothing to say and no letter was sent.

10.58 On the evening of SB's arrival Miss Lynn Drever told his foster mother that he had an appointment with the dentist. Certain teeth were to be removed under a general anaesthetic. The foster mother asked what was to be done and Miss Drever said that she would get back to her the next day. The foster mother however heard nothing more. On 27th February Mrs B and her solicitor visited Mrs Susan Millar at the Social Work Department in Orkney and Mrs Susan Millar learned then of SB's dental problem and of the intention that some eight teeth should be removed. At that stage Mrs B refused to allow SB to be treated by any dentist near his placement. On 1st March Mr Lee had noted from his meeting with Mrs B that she wished to be present at the operation as it required a general anaesthetic. Mrs B had promised SB that she would be present should he need an anaesthetic.

10.59 Some time later SB's foster mother sought advice from Ms Jackie Wallace and Mrs Susan Brown because SB's teeth were beginning to hurt him and he was also embarrassed because of bad breath. Having received no response through them she then contacted Mr Sandy Fraser who succeeded in contacting Orkney and he advised the foster mother that she could have a dentist to check SB's teeth but not to take any out as his mother wished to be with him if any teeth were to be removed. On 25th March Mr Lee wrote to Mrs B asking permission to have

SB's teeth removed. Mrs B had a meeting with Mr Lee at which she felt that he was putting pressure on her to consent to the operation on SB's teeth. It seemed to her that he did not want her to have any part in her child's future. She felt that having promised SB that she would be with him during the operation she would be letting him down if she was not there.

10.60 SB was anxious about his teeth and did not understand why he could not go to the dentist without his mother. His foster mother wanted to take him and have the treatment done but she understood that this was impossible in the absence of parental consent. In the meantime however the local dentist had looked at SB's teeth and advised that contrary to the view taken by the dentist in Orkney there was no urgency in the carrying out of the operation. On 29th March Mr Lee wrote to Mrs B telling her that the matter was not now urgent. The matter was also raised with SB's curator and with the MP for Orkney. In the event none of SB's teeth were removed prior to his return to Orkney.

10.61 During his time at the foster carer's house SB frequently engaged in drawing pictures which he appeared to enjoy doing. On the first occasion on which he started drawing he produced some pictures which his foster mother considered were unusual. She accordingly took them to Strathaven and gave them to the RSSPCC workers. SB drew frequently while he was with his foster carers. His drawings were often unusual but never so bizarre as those which he produced on that one occasion and she never bothered to take any of the later drawings to the RSSPCC. He wrote verses on some pictures. The drawings included a man with stylised woman's breasts, figures with strange faces and hair like Medusa and miseries from a television advertisement for Beechams remedies.

10.62 SB regularly made some observations during the whole of his stay with his foster carers which his foster mother considered bizarre. She kept and was asked to keep a diary record of incidents during his stay and passed on any unusual happenings to the RSSPCC. Her diary was insufficient to contain all that SB was saying. He was liable to stand up suddenly and come out with vulgar language or bizarre statements. This was liable to happen wherever he was, whether with relatives of the foster mother, at the swimming baths or after the cinema. On one occasion he said 'they are wanting me to say things and I don't want to say them'. He once said of the foster mother's sister who was a size ten that she was so big that she would not fit in the cooker. The stories he told concerned violence and death and there was a sexual element in his language. He mentioned what he referred to as groping which he drew and described. He talked of his house as a bad house and that his father did not agree with what was happening in the bad house. He also talked of everyone in Orkney having black and red radios and said that his mother would hear him on the radio. His foster mother reprimanded him for using bad language and that upset him.

10.63 At tea-time on the day of his arrival there was a power cut in the foster carer's house and candles had to be provided to give illumination. SB then passed his finger through the flame of a candle. SB said 'I like hurting myself. I like killing people'. The light was restored and when the foster mother made a comment about that SB observed 'May the light not be upon us and God not be with us'. The foster mother described him as excited and jumping about. The incident was reported by Mr Philip Greene to Mrs Susan Millar and she advised him to tell the Acting Reporter. SB on another occasion spoke of a quarry where they would play and get dirty.

10.64 SB's foster mother was not informed that a curator had been appointed to the B children and was taken by surprise when he made his first telephone contact with her on 11th March. He visited her on 26th March accompanied by the psychologist whom he had instructed, Mrs Susan MacLaren. He found the foster mother very co-operative. He sought to explain to SB who he was, that he acted for him and that SB would probably have to take part in the forthcoming Sheriff Court proceedings.

10.65 The main difficulty which SB's foster mother faced was the lack of a decision maker in Strathclyde and the apparent necessity for problems to be passed to Orkney to be resolved. Thus when the matter of SB's teeth arose all that could be done was to have the problem relayed to Orkney. She met Mrs Susan Brown

the co-ordinator at Strathaven but Mrs Brown was not able to visit the foster homes and see the children there. The foster mother found that there was a lack of communication of decisions. But this did not adversely effect her day to day care of SB. She did however feel that SB would be conscious that he was different from the other children in not going to school and that was not in his interest. His every day care was not in practice prejudiced by the necessity for secrecy but the foster mother found that that element imposed an extra strain on her. She found it curious that when such importance was placed on secrecy an ordinary contract taxi was used to take the child to Strathaven.

IV. FW and EB

10.66 W and EB's foster carer had been fostering children for the previous nine years during which period she had fostered some two hundred children including some sexually abused children for varying lengths of time. Ms Jackie Wallace was her regular link social worker. She was not given any written information about the children but Ms Wallace gave her over the telephone the substance of the matters set out in the pen portraits including a note of the girls' progress at school. The foster carer had initially understood that she was to receive three girls but was told on 26th February by Ms Wallace that two girls were coming and their ages. The placement was within a built-up area and very different from the country environment of the girls' home. Both of them preferred the country.

10.67 When the two girls arrived on the evening of 27th February the foster carer asked Miss Lindsey Stevenson for information but none was forthcoming. Miss Stevenson replied to the effect that 'we work blind'. The foster carer was not told why the girls had been taken into care and she was given to understand that the placement could be up to three months. Miss Stevenson said that the girls had been medically examined at Yorkhill. The foster carer asked the result of the medicals but received what she described as a brush-off answer. She asked why the girls had been received into care but received no answer which she would regard as satisfactory. Miss Stevenson told the foster carer that there was to be no contact between the girls and their brother.

10.68 After the girls arrived the foster carer gave them something to eat. They had no belongings at all with them but EB had a bag of sweets. The foster carer had to obtain clothes for them as she regularly required to do with foster children brought into emergency care. The girls were very tired and could not understand why they had been taken into care. They were asking the foster carer for the reason but she was unable to say. They went to bed and slept well. That evening the foster carer learned from an early edition of a newspaper circulated on the evening before its publication date which a neighbour showed her of the removal of the children from Orkney and was concerned that information was published in the newspaper and had not been given to her.

10.69 On 28th February the foster carer for W and EB sought further information from the Social Work Department in Strathclyde about the girls and their family background. Mr Philip Greene said that he would try to obtain it. In the afternoon Miss Lindsey Stevenson and Mr Leslie Hood came to say that they would like to speak to the girls at the Strathaven centre. They spent some time at the foster home with the girls on their own. Miss Stevenson told the foster carer that the telephone call on 27th February to the girls should not have taken place and that the girls should not be allowed any contact with SB. They talked of some possible horse-riding for the girls but in the event this was never arranged. The foster carer was advised by the workers from the RSSPCC on 28th February that neither she nor the girls should see any newspapers nor television news. For the following weeks she dispensed with newspapers and endeavoured to avoid the news broadcasts. On one occasion she inadvertently noticed a press report about the Orkney children while looking for the television programmes in a friend's newspaper.

10.70 EB and WB shared a bedroom at first in order that they might settle down but after consulting WB the foster carer gave her a separate room. The foster carer offered to take the girls out to different activities such as ice-skating and swimming

but WB refused and EB was not keen. She took them to her sister's house twice for a visit. On one occasion there was a delay obtaining a taxi to return home and the late hour of their eventual return caused concern to Mrs B when she later learned of it. The girls only liked to eat fish or chicken and the foster carer endeavoured to meet their preference. They were allowed to watch videos which were not permitted by Mrs B at home and, as Mrs B was disturbed to learn later, they had watched a video suitable only for those over eighteen. That had happened while they were in the care of a baby-sitter. The foster carer would not herself have allowed it. The rules of the house were similar to those in the girls' own home. EB felt trusted and was allowed to go to shops on her own. She found the period to have been a happy one with sad times. Each found it comforting to have her sister with her. They discussed running away but saw little point in that.

10.71 The foster carer of WB and EB knew the foster mother of SB through the training sessions which they had both attended. SB's foster mother telephoned to W and EB's foster carer to enable SB to speak to his sisters on the evening of 27th February and he did so. The girls' foster carer was surprised to hear that the Strathclyde Regional Council had permitted the call when Miss Lindsey Stevenson had told her that there was to be no contact between the children. Mr Philip Greene had understood from Mrs Susan Millar that the members of the family could contact each other as the foster carers would be known to be in contact with each other. The call gave the girls considerable relief. Subsequently W and EB's foster carer was told that the girls were to have no contact whether by telephone or in writing with their brother. When WB was told that she said 'it's silly'. No further telephone calls were made between the children.

10.72 During the first few days of their stay the foster carer noticed that on quite a few occasions WB was tending to tell her younger sister to be quiet when EB tried to speak. As a result some concern was felt that WB was preventing her sister from speaking freely. Mrs Susan Millar learned of this from Mrs Susan Brown on 6th March and discussed it with Mrs Brown and the RSSPCC and Mr Greene. After the first few days WB became more relaxed and did not prevent her sister talking to the foster carer. The foster carer had originally considered that the girls should not continue to be placed together and she raised that matter at the meeting which she attended on 5th March as a matter which had occurred to her earlier on. But by that time she had taken the view that the girls should not be separated and that was the view which she expressed as her current opinion on 5th March.

10.73 Mrs Susan Millar and the RSSPCC however were each still considering a separation of the girls on 6th March when they met Mrs Susan Brown. When the foster carer met Mrs Brown on 13th March and learned of her desire to move WB to a separate placement she said that she did not agree to a separation at that point as it would be a further traumatic experience for the girls and a step which she regarded as 'ridiculous'. The matter was discussed by Mrs Gwendoline Hamilton and Mrs Susan Brown on 13th March when the problem was raised that the foster carer never had a break, having to look after one child while the other was being interviewed and a compromise was proposed whereby the two girls would travel separately to Strathaven. The matter remained as an unresolved problem. Mrs Brown had considerable concern about the placement which she considered inappropriate owing to the foster carer's lack of understanding of the work of the RSSPCC and her high level of anxiety. She continued to pursue the possibility of altering the placement and eventually after extensive search found an alternative placement but the children were returned home before it could be used.

10.74 It was believed by Miss Lindsey Stevenson that the girls' foster carer was becoming depressed because the girls were not speaking with her about the experiences which they might have been disclosing at the interviews. There was a fear that she was questioning the girls herself. Miss Stevenson heard of that from Mrs Brown and Miss Stevenson passed on her own concern to Mrs Brown.

10.75 One matter which concerned the foster carer was the lack of any background information she had of the children's family. She regarded it as important that she should not be nor be seen to be ignorant about the children's relations. She eventually obtained some information about the reasons why the

children had been removed. When she applied to Mr Philip Greene for information she was given to understand that he had told her all he knew and was trying to obtain more information. One incident illustrated her embarrassment at not having the information she wanted. One of the girls indicated that her sister's father had died. It was only when the foster carer asked about it that she realised for the first time that there had been an earlier marriage. Both she and the girl were upset, the one at having to ask and the other at discovering the foster carer's ignorance.

10.76 WB was at times distressed and upset during her stay with the foster carer. She was moody at times. She several times expressed a bewilderment as to the reason for her having been taken away from home. Throughout their stay neither girl knew why they were there. WB said that she could not understand why anyone could say that she had been hurt. She missed her brother and said that it was not fair that they should be separated. She missed her mother and was worried about her. She drew various drawings which the foster carer did not understand and which she passed to Miss Lindsey Stevenson. The foster carer agreed with SB's foster mother that she could supervise access by SB to his sisters but such contact was disallowed. WB continued to express the view that she should be with SB as he was the youngest but her foster carer was able to relieve her anxiety by telling her that she had spoken to his foster mother and that he was getting on well.

10.77 At the meeting on 5th March which the foster carer attended she learnt that the warrant had been extended for twenty-one days. She did not receive a copy of the warrant and even by 13th March copies had not come to them. She passed that information on to the girls. WB was upset and cried for the first time, which seemed to her foster carer to be a good thing as she had seemed too controlled. She subsequently told the girls of the unsuccessful appeal but that did not cause further distress. She had not told them earlier of the appeal so as not raise their hopes. WB again reacted with anger when, on 25th March, the foster carer told her of the further extension of the warrant. WB became anxious about going out lest other people should know who she was and she was frightened to say who she was in case people got the wrong impression. Such a fear was realised on the occasion of a visit to the foster carer's sister on 30th March when inadvertently the television was left on and something was broadcast about Esther Rantzen going to Orkney. WB was concerned lest it disclosed that she was one of the children involved and was worried lest it would change the foster carer's sister's impression of her. Both children were also upset at what would be said when they returned home.

10.78 EB was found by her foster carer to be talkative and at times highly excited. Generally she was a happy and chatty child. She was, however, more reserved than her sister in expressing her feelings about her separation from home. She did not show the same distress as her sister at the news of the extension of the warrant on 5th March. She showed no concern when, on 25th March, she was told of the further extension of the warrant. But EB became at times highly excited, jumping all over the place. She seemed to be behaving provocatively. The foster carer told Mrs Susan Brown about this. EB seemed happy with the attention which she received and did not show signs of being homesick.

10.79 The foster carer gave the girls pocket money as was her standard practice. They spent the money on sweets and presents. The foster carer had no problems in controlling the children and would threaten to cut off EB's pocket money if she misbehaved. EB was allowed to go to an ice cream van which came to the street and was visible from the house in order to buy ice cream. There was a mobile shop which parked near to the foster carer's house and EB went there on her own during daylight hours, having been accompanied by the foster carer on her first visit to it. EB would go to bed usually between about 9.00pm and 9.30pm and WB about an hour later. The girls both slept well. EB would get up between 8.30am and 9.00am but WB would sleep for a longer time, sometimes because she was upset, and would usually be up at about 9.30am. On the days when they required to go to Strathaven in the morning they required to get up earlier. The

foster carer had a baby sitter who could look after the girls if she required to be away.

10.80 The foster carer had a poodle which was house trained but which tended to go into every room in the house. EB became fond of the dog. The girls were asked about their religious observance. WB thought that she might be a Catholic but was not sure. EB did not know what religion she had. Foster carers in Strathclyde endeavour to encourage and facilitate religious contacts for their foster children, but in the present case the foster carers found it difficult as they had no communication with the parents.

10.81 The foster carers of the B children phoned Mrs Hamilton on 28th February expressing concern that they did not have the normal RIC forms and in particular EB's foster carer did not have any details about her asthmatic condition and its treatment. On 8th March EB's foster carer sought Mrs Hamilton's advice on how she could obtain some Ventolin for EB from a general practitioner without prejudicing EB's confidentiality. Mrs Hamilton advised her to go to her general practitioner but only to disclose EB's christian name and date of birth. However the foster carer had no contact with the general practitioner about EB's health until 22nd March when a medical examination was arranged. EB did not, in the event, suffer any severe bouts of asthma during her stay in Glasgow and was not without a supply of medication for that condition when she required it. Her condition was especially examined by the doctor in that regard at the time of her 'freedom from infection' examination and she was found to be in good health. That examination took place following the confusion about the examinations held at Yorkhill. As narrated in Chapter 10.3 she refused to have another medical examination. With regard to the examinations at Yorkhill EB had found the examination to be unpleasant and did not like to recall the details. She did not recall that anyone had asked her permission to carry it out. WB was angry and embarrassed at the examination and said she did not have a choice. She claimed that it hurt.

10.82 WB was anxious to send a card to her mother for Mothers Day. While at Strathaven on 13th March the foster carer understood that the girls would be permitted to send a card. Mrs Susan Brown gave a clear instruction that the girls could send a card to their mother with a simple greeting. However, it proved impossible to find a card and so WB wrote a letter instead. The foster carer took the letter to Strathaven on 15th March, but the view was then taken that no such contact should be permitted between WB and her mother and a photocopy of the letter was required. The foster carer returned the letter to WB who was angry at the prohibition saying that it was stupid and silly. According to Mrs Brown the permission was for a card only and not for a letter.

10.83 W and EB's foster carer received no advance warning that the curator had been appointed to the children. The curator for the B children phoned her on the evening of 11th March but the foster carer told him that she could not speak to him. The foster carer then phoned Mrs Hamilton and said that she was going to phone Mr Lee that night. On 13th March she received a letter from a firm of solicitors confirming that the curator had been appointed. The curator also rang SB's foster carer. Both foster carers received certain anonymous calls thereafter and they were each concerned because their numbers were, in each case, ex-directory. These calls stopped after the girls had left. The girls' foster carer told Mrs Hamilton and Ms Jackie Wallace about them. The telephone call on 11th March was the first occasion on which Mrs Hamilton heard of the appointment of curators.

10.84 The curators' appointment was discussed at the meeting in Strathaven on 13th March and on the same date the foster carer received another call from the curator and referred him to Mrs Brown. On 26th March the curator visited the girls at their placement. The foster carer knew nothing about him before he came. He came with the psychologist, Mrs Susan McLaren, who saw the girls alone in a bedroom. He had mentioned only that a lady would be coming with him and the foster carer only learned who she was when they arrived. He spoke to the foster carer and then to the two girls. He noted that there were no other children living with the foster carer and thought that the environment would be very different from that to which the children would be accustomed. He thought it

might have been better if they had been placed in a rural area but was satisfied with their material care. The girls were concerned about what they understood him to be saying about a permanent placement, but the foster carer assured them that the curator had been talking about their possible presence at the proof in the Sheriff Court. Mrs Susan Brown considered that the short timescale allowed to the curator exacerbated the problem of access.

10.85 On 31st March WB was watching the television and suddenly started screaming. She ran to the arms of her foster carer crying. She had heard her mother on the television. She said that the Social Work Department had no right to speak to the television people about the family. The foster carer told her that it might be her parents who had been speaking to the television people. EB had no evident reaction to the broadcast. On the following day WB was worried whether she was going to be allowed home or not and expressed anxiety about the Court proceedings.

10.86 Mr B had no complaints to offer about the foster carers who had looked after the B children. He noticed changes in SB which he did not attribute to his experience in care but not in EB or WB. He was pleasantly surprised as to how the children were. WB did not want to discuss experiences. Mrs B felt that WB and EB had been spoiled by their foster carer. Mrs B was concerned at SB's condition on his return. She saw him as having become a very introverted little boy. Only in September 1991 was he able to talk about anything to do with his placement. She felt that he continued to be afraid that social workers would remove him again. He seemed to her to have lost weight and to be in a state of stress. She accepted that the foster carers had done their best for the children, but she considered that a placement should have been found which was in a rural setting and similar to that to which the children were accustomed. She did not find that they had been subject to the same discipline as at home. After the girls had returned home Mrs B wrote a letter of thanks to their foster carer as did WB.

V. SM

10.87 In the course of his search for placements Mr Lee spoke on 18th February to Mr Ian Gilmour and the latter then raised a question whether SM might not be both a participant in, and a victim of, abuse. The same possibility was voiced by Mr Philip Greene. That possibility prompted the idea that a placement with community parents or at a resource centre might be suitable. No such place was available and at the last minute Geilsland School was suggested. Mr Greene considered that if there was a risk of SM being an abuser it would be inappropriate to place him with a foster carer, where there would probably be other children, or in a children's home. There was in any event a serious shortage of foster placements for young people of his age. Mr Lee sought to find a community foster placement for SM but no such place was available and it was in these circumstances that a place was offered at Geilsland School. Mr Lee accepted it as there seemed to be no alternative and time was short.

10.88 Geilsland School is managed by the Church of Scotland Board of Social Responsibility. It was opened in 1964, was formerly used as an Approved School and subsequently as a List D School. More recently it became a residential school under contract with Strathclyde Regional Council. The headmaster's immediate superior was the Area Manager of the Board of Social Responsibility, a Mr Dimmer. The places in the school are paid for by Strathclyde Regional Council but some places can be made available to other local authorities under arrangements which secure recovery of some proportion of the costs. It is a residential establishment for the purposes of the Social Work (Residential Establishments - Child Care) (Scotland) Regulations 1987 (SI 1987 No 2233). There is no secure accommodation within the school which can be used to limit a young person's physical liberty. Geilsland School operates a Christian approach on a non-denominational basis. It provides academic, practical and technical education with vocational training taking precedence over more academic subjects, and has facilities for sports and recreational pursuits. The school endeavours to provide a caring environment

aimed at enabling the young men attending it to return to an active and useful life in the community. It seeks to provide a flexible system geared to meet each individual's needs.

10.89 The staff included some sixteen social workers, three teachers, five instructors (including a senior assistant), four senior assistants and two deputy heads with responsibility respectively for social work and education. The headmaster of the school, Mr Ranald Mair B.A., M.A., is a man of considerable educational qualifications, ability and experience both in sociology, social work, child care and the practical management of residential accommodation for young people. Following on SM's stay there Mr Mair felt that there had been such public concern and mis-information about the school that he should correct it and he issued a statement about the school for publication. On 27th March he faxed to Orkney a handout giving information about the school and some notes about SM's placement.

10.90 The school has thirty-five residential places and ten day places available for young men between the ages of fifteen and eighteen. Most of them had been placed there by a Children's Hearing in order to meet their particular needs either following on the commission of some offence or on account of some background problem. When SM arrived there were twenty-nine young men resident in the school. Some two-thirds of them had a background which included offending. SM got on well with them all. He was well treated by the staff and the residents. But the social environment was very different from that in Orkney in which his parents had intended to bring him up. Through his acquaintances at Geilsland School SM, as his parents saw it, was exposed to those very influences which they had come to Orkney to escape. SM found the backgrounds of the other young people there completely different from his own.

10.91 Contact was first made with Geilsland School on 26th February by Mr Neil Sharp who was the liaison officer for Geilsland at the Strathclyde Social Work Department. Mr Mair sought, as was his usual practice, to clarify the reason for the admission. He was given to understand by Mr Sharp that there were four reasons why a residential placement was being sought: firstly, that SM might respond badly to being brought into care by displaying aggression, which was a belief formed by Mr Sharp who had seen a copy of the pen picture of SM faxed from Orkney Islands Council to Strathclyde Regional Council and noted a comment that SM had dominated and even bullied other children; secondly, because it was not clear whether SM was a victim or a perpetrator or both; thirdly, because the children were being separated to prevent contamination of evidence through their possible collaboration; and fourthly, because a residential setting with day-time education available on the premises was thought more suitable to one of his age than a foster home where he would have an added difficulty in explaining himself at a local school. Mr Mair accepted the placement trusting the Strathclyde Social Work Department and those for whom they were acting and understanding that the situation was one of an emergency placement under a Place of Safety Order and for a relatively short period.

10.92 Regulation 19 of the Regulations of 1987 requires that in circumstances, such as applied to SM, a local authority may only place a child in such an establishment as Geilsland School on one of two conditions. The first is that it has complied with the procedures provided for in Regulation 18, but in the present case that was not done. Accordingly the second condition required to be met by the appropriate authority namely that (a) consideration was given to the question whether the placement would be detrimental to the welfare of the child and (b) that it be satisfied that having considered all the information available to it, placement in the residential care would be in the child's best interests. Mr Mair was of the opinion that Geilsland School was a suitable placement although, as he reported to Orkney Islands Council on 27th March, 'not the ideal environment for SM in a general sense'. Mr Ian Gilmour had considered the Regulations and took the view that the placement was not only not detrimental but would be advantageous in that it was believed that SB had been abused and so he would be better to be in residential care.

10.93 On arriving at Glasgow SM was taken to Yorkhill Hospital and given a medical examination. As was the case with the other children taken to Strathclyde the examination was simply for the purposes of discovering whether there was medical evidence of sexual abuse although Orkney Islands Council and Strathclyde Regional Council believed that an examination to ascertain the child's general health would also be carried out. SM understood from Mr Leslie Hood that he had his parents' permission and that SM had no choice. Mr Hood told him that he had reason to believe that SM was physically abused. SM found the examination unpleasant. He believed that he had been told lies about his parents' consent and he believed that no choice was being given to him. He was particularly upset at the taking of a rectal swab. Thereafter he was taken on to Geilsland School.

10.94 In normal circumstances as a matter of routine, a medical examination of a child admitted to Geilsland School would be carried out to check that the child had no infection, to measure his height and weight and assess his general well-being at the time of admission. Mr Mair did not know whether the examination at Yorkhill Hospital satisfied this routine requirement as the details of it were not shared with him. After considering the matter and making enquiries of officials of Strathclyde Regional Council he took it on trust that the examination had satisfied the requirement and accepted that the procedure for admission into the school in respect of medical examination had been carried out. He was also unwilling to subject SM to a further medical examination. Mr Mair took the matter up with Mrs Susan Brown and Mrs Susan Millar but never received any clarification. A record was however taken in the school probably by the matron of his height and weight and appearance for any necessary identification purposes. SM was not formally registered with the school medical practice because of the temporary nature of his stay but he would have received medical attention if it had been necessary. The health requirements set out in Regulation 13 of the 1987 Regulations were satisfied so far as he was concerned. In the event SM never needed any medical attention or treatment.

10.95 SM arrived at Geilsland in the company of Constable Pamela Ross and Mr Leslie Hood of the RSSPCC and a local social worker, acting as guide, at 5.30pm on 27th February. He had no documentation with him other than the pen portrait. A report from his school arrived some ten days later. He was welcomed by one of the staff, Mr Chris McNaught, accommodated in the 'New Vic' unit and allocated a single room. He was quiet and showed no outward signs of distress. He had a meal, joined others watching the television and went to bed at 10.30pm. He had a good night's sleep. SM understood that he was in a special part of the school intended for abused children. On 28th February Mr Hood returned to the school with Miss Lindsey Stevenson to arrange for SM to attend at Strathaven for an interview.

10.96 It was made clear to Mr Mair that he was simply to look after SM but not to participate in any investigative work. His was to be a care function only, and not an undertaking of all aspects of such work. This was a different responsibility from the caring responsibility which the school normally provided and it sat uneasily with the normal role of the school. Mr Mair understood that the legal responsibility lay with Orkney Islands Council and that they were to make all decisions on such matters as education, access, mail and possessions. Mr Roy took on the role of key worker for SM for the first few days but Mr Mair then took on that role himself as the circumstances were so unusual.

10.97 During his stay SM demonstrated a high degree of circumspection and self-control. Mr Mair thought that he controlled himself too much as if he feared that he might prejudice his prospect of leaving if he did not control himself. He seemed conscious that anything which he said might be used by others. He was concerned particularly for his younger brother and came near to showing his distress visibly in that connection. The staff were also guarded and did not probe or enter into any deep discussions with him. SM formed a positive view of them but did not trust any of them. For the first three or four days he felt that he was 'in a dream' and did not understand how it could happen.

10.98 In conversation with Mr Mair SM maintained that none of the activities in which it was alleged he was involved had happened. SM believed that Orkney

Social Work Department had been involved in a vendetta against his family because they and others had supported another family from which children had been taken into care. He thought that the social workers were genuinely concerned that something had happened but he felt that he was not being listened to nor believed. He questioned whether his rights were being observed and he said that he would have had more rights if he had been charged with a serious offence. From Mr Mair's observations, SM showed none of the normal signs of abuse. He was well adjusted and well cared for. At the interview sessions at Strathaven SM considered that he was not being believed.

10.99 The overriding concern of Orkney Islands Council as Mr Mair saw it, in the removal of the children, was the investigating and obtaining of evidence. Mr Mair's concern at Geilsland School was the fear that the needs of the child were being subordinated to the need for investigation. He was unable to do all that he would have wished to do in the way of normal care for SM but SM was physically and materially well looked after and in Mr Mair's view was as happy as he could be in the circumstances.

10.100 SM was treated in the same way as the other young men at the school. He took part in the normal activities of the school. He would get up at 8.00am and have breakfast. From 9.00 till 9.30 there was a morning meeting. From 9.30 to 11.45 there was a period for education. Thereafter there was lunch and recreation. In the evenings at the school he could attend the cinema or the baths. He was a keen watcher of television. SM came to the school's weekly religious services in the chapel. Mr Mair gave thought to SM's religion and discussed with him the suggestion of his transfer to a Quaker school but SM seemed to him not to have the same depth of involvement in religion as his parents evidently had. SM found the strict regime difficult during his stay.

10.101 SM was geographically disorientated. He wanted to know how far he was from the sea and underwent a sense of culture shock. Mr Mair asked if he was content to stay at the school, and SM was clear that he did not want any further move until matters had been resolved one way or the other. Mr Mair was confident that SM was not subject to corrupting influences while he was at the school. He saw no indication of SM being distressed or hearing any undesirable things any more than he would have done elsewhere. There was a high level of supervision. While there was talk among the young men it was no more than what would occur in a normal day school. In Mr Mair's view while SM was in contact with young men who had been involved in activities which he would not otherwise have come across and some would have impressed him with their exploits he was not introduced to any areas of which he had no awareness. SM gave no explanation to the other young men why he was there because he did not really understand why until he was told at one of the interviews. He felt that he was accepted by them because of the anger he expressed about the social workers and the police. He accepted his position philosophically recognising that he had no choice. During his time at the school he changed his view of the young people there, whom initially he had seen as 'criminals'.

10.102 There was a series of forms and records routinely made up on the arrival and on the discharge of a boy at Geilsland School and in the case of SM these steps were carried through so far as was practicable in the circumstances and so far as was possible in light of the limited information available. While some minor imperfections in these records were disclosed in the evidence the formal record keeping was generally careful and efficient. Mr Mair kept a note on a daily basis of matters relating to SM. He did not record every conversation and every incident but provided a reasonably detailed account of SM's history at the school. Regulation 15 of the Regulations requires the maintenance of a logbook of 'day-to-day events of importance or of an official nature' and Mr Mair's records clearly satisfied that standard. The absence of documentation caused concern to Mr Mair. He was given little information about SM's background or history, his health, education, and social background, all of which were desirable in order to provide adequate care for him and while he observed that SM was tall, healthy, well-grown and possessed a good appetite he had no detailed medical information about him. He was unable to communicate with the parents or SM's school for information.

There was no report beyond the pen portrait on his background or on what was to be done with him. Mr Mair did not receive a copy of the Place of Safety Order. Mr Mair raised the matter with Mrs Susan Brown on 12th March. She undertook to look into it but the matter was not resolved.

10.103 SM's presence at Geilsland School was to be kept confidential. Mr Mair faced an immediate problem with the substantial publicity which was given to the removal of the children. He decided with SM that newspapers and the television should continue to be made available in the school and he sought to make a balanced selection of the newspapers for the boys. SM's presence at the school remained confidential so far as most of the outside world was concerned although his circumstances and identity were known to the other residents. In taking the course which he did Mr Mair took what he accepted was a calculated risk that the other boys would not disclose SM's presence.

10.104 The media coverage served as something of a lifeline for SM. It kept him informed on the progress of the Children's Hearings and satisfied his need to know what was happening. He became aware in this way of the public interest and of his parents' appeals. As has already been mentioned the various forms sent off by Mr Sloan relating to the proceedings before the Children's Hearings were not handed on to him and he had no complete official notification of those proceedings. He asked to be present at the Children's Hearings but was told that the sittings were too far away for him to attend. The general terms of the press reporting were supportive of the parents who were denying the allegations and hostile to the Social Work Department. While Mr Mair regarded the publicity as undesirable he considered it better to adopt an open approach and make the press reports available. The media coverage gave added concern to Mr Mair and his staff in trying to keep the identity of SM's placement confidential and to avoid intrusion of the press into the school, which could have been disruptive to the progress of the residents. As early as 4th March however an enquiry came by telephone from a solicitor in Edinburgh acting for Mr and Mrs M seeking confirmation of his whereabouts. Mr Mair replied that he could not confirm or deny that SM was there.

10.105 Mr Mair was instructed by Strathclyde Social Work Department, relaying an instruction from Orkney Islands Council, that SM was to have no contact with his family or friends nor with anyone other than officers acting for the Orkney Islands Council Social Work Department. He was visited by Mrs Susan Brown on 12th March when there was discussion which included his education, his personal possessions and correspondence, the legal position, and the substance of the grounds for referral. He was also visited by his curator *ad litem* on 27th March, who came with a psychologist, Dr Robson, whom he had engaged. It was only through his curator that SM saw the written grounds for referral although Mrs Brown had earlier told him the substance of them. The two psychologists instructed by the Acting Reporter visited Geilsland on 19th March but spoke only to Mr Mair and did not see SM himself. Mr Mair tried to articulate SM's concern about the general absence of contact to Mrs Susan Brown. He was both reporting SM's view and trying to satisfy himself that the complete ban was necessary. He also discussed it with Mr Philip Greene and Mr Sandy Fraser.

10.106 The lines of communication open to Mr Mair were several in number but inadequately effective. He was in contact with officials of Strathclyde Regional Council, in particular with Mr Philip Greene, Mr Sandy Fraser, whom he used as a sounding board, with Mr Ian Gilmour, with Mrs Susan Brown after her appointment and, to a more limited extent, with officials of Orkney Islands Council. Any contact with the parents required to be through Orkney Islands Council. He also had some limited contact with the RSSPCC and there were a few direct telephone calls with staff of the Orkney Social Work Department. While he had a fax facility, Mr Mair did not communicate with it to Orkney Islands Council but went through Strathclyde on account of the desire to preserve confidentiality except on 27th March when he sent information about the school direct to Orkney Islands Council. Mr Mair used what he described as a scatter gun approach in his attempts to communicate matters on behalf of SM. He had at times a degree of frustration whether his messages were getting through but by his

scatter gun approach he hoped that some of his shots would hit home. Various matters raised in Orkney about SM and his welfare were referred to Mr Mair and answered by him. These included the payment for SM's new clothes, the alarm his mother felt for his safety, the possibility of his moving to an alternative placement such as a Quaker school and the need for his school books and his stereo. Mr Mair was satisfied that SM was content to remain where he was until his future was resolved.

10.107 SM arrived at Geilsland School with what he stood up in. Mr Mair considered that that was not ideal, but understood that possessions had been prohibited partly for evidential reasons and partly because it was considered at the outset that some might contain messages or be used for ritual purposes. Mr Mair spoke to Mr Philip Greene and Mr Sandy Fraser about the absence of possessions. SM was irritated at not having access to his own belongings and he was particularly angry during the first week at not having any spare clothes. Some were eventually bought at a local shop on the school account. Efforts were made to obtain his personal stereo and an alarm clock and to obtain some tidy clothes if he had to attend Court. Mrs Brown brought his stereo player from Orkney for him. There was difficulty in obtaining his ghetto blaster. SM regarded it as a waste of time that a stereo player was allowed to be brought but not his ghetto blaster. There was discussion on 12th March when Mrs Susan Brown visited Geilsland School about his personal possessions and she collected some of them when she visited Orkney on 19th March. Tapes were purchased and broken earphones had to be replaced.

10.108 SM had books to read from the library. Mr Mair lent him his own copy of a book called *The Hounds of the Morrigan*, which was about the conflict between good and evil, witches and magic. SM was of the view that while he saw such books as innocent they could be taken as evidence of the involvement of his family in the alleged activities. SM said to Mr Mair in the course of a discussion about literature 'You can read things into anything'.

10.109 On Mother's Day SM, like the other boys in the school, wanted to send a Mother's Day Card. The matter was, in Mr Mair's eyes, of importance to SM. Mr Mair sent SM's request to Mrs Susan Brown and on 8th March she approved, provided that no lengthy message was enclosed and the card did not disclose where SM was. SM chose the card to be sent. There was concern about the address not being revealed and that some coded messages might be included. From Mrs Brown Mr Mair understood that coded or secret messages might be part of ritual abuse, although he was not clear in his own mind what the significance of the word 'ritual' was in that context. Mrs Brown forwarded the card from a place other than where SM was staying. An earlier letter to his parents was, however, not forwarded.

10.110 SM had been following a Standard Grade Course at his school in Orkney. Geilsland School did not provide for that course or for the Higher Grade course and it was clear that the school could not sustain his academic needs. The school provided a small amount of classroom work but it was primarily concerned to provide vocational courses and technical training. Mr Mair discussed his education with SM on about the second day after his arrival. He was not able to make direct contact with SM's own school which made it more difficult to resolve educational matters and he saw no reason why Mrs Susan Brown should not communicate with that school. Mr Mair had no information at the outset of SM's educational position beyond that contained in the pen portrait which gave no detail but did indicate that his school progress was good in all the subjects which he was studying. On about 12th March Mr Mair received a report on SM from his school in Orkney which gave some detail of his achievement. Mr Mair realised that SM was an intelligent young person and keen to enter higher education.

10.111 Mr Mair asked for school work to be sent for SM from Orkney suitable for him. However the only work which was sent was some English work which arrived with the school report after SM had been at Geilsland for some ten days. Mr Mair passed his requests for work through Mrs Susan Brown and through the Strathclyde Regional Council. He raised the matter with Mr Philip Greene and with Mr Leslie Hood, and discussed it with Mrs Susan Brown. He continued to raise the matter as time passed and no response to his request came forward.

Mrs Brown also made various efforts through the Orkney Education Department to get work to SM. On 15th March the parents' solicitors wrote to Mr Lee that essential work for his Standard Grade was not being allowed to go to him. Mr Lee took this up with the Orkney Education Department and asked them to act but only at the end of the month was a parcel of work sent off to Mrs Brown which was for practical purposes too late. No sufficient explanation has been given why more work was not forwarded to SM and it appeared that SM's English teacher was particularly concerned at the failure to get work through to him speedily or at all.

10.112 Mr Mair also considered the employment of a tutor for SM to enable him to keep up with his level of education and discussed this with Mr Philip Greene, but, as has been already noted, no tutor was obtained. When Mrs Brown reported to the case conference on 19th March that arrangements had been made for a tutor she meant that steps were being taken by the school. Consideration was also given to SM attending a local Secondary School and the possibility of SM moving to a Quaker school which had been raised by his parents with Mr Lee was discussed with him by Mr Mair. However SM preferred to remain where he was until his situation had resolved. That matter was further discussed between Mr and Mrs M and Mr Lee but as Mr Mair understood it the nearest Quaker school was in Surrey in England which made the move impracticable. In the event SM attended the ordinary classes which Geilsland School provided in mathematics and English and did some art work. He did not receive any new instruction to advance the studies on which he had already embarked. He achieved the poetry work which he had been sent. He was allocated to the joinery class in the school.

10.113 SM's period in Geilsland School created as Mr Mair described it an unfortunate hiatus in his programme. Such education as the school could provide was not such as to enable him to maintain the continuity of his courses. He missed some weeks out of the normal progression of his courses at school. On the other hand the latter part of his placement entered into the period of the school holidays so that what in substance he had lost in classroom work was some three weeks of the five week period. It was reasonable for Mr Mair not to have embarked on any long term educational plans as he would not have considered Geilsland School as a suitable long term placement. SM himself was minded to wait until his situation was resolved. In planning adequate and efficient education required by Regulation 11(1) of the 1987 Regulations Mr Mair was entitled under Regulation 11(3) to have regard to the period of SM's expected residence at Geilsland School and in the circumstances he felt that he had satisfied his statutory duty in that regard.

10.114 SM was settled in school and formed positive relationships with the staff and the boys. On 8th April after SM had returned home Mr Mair wrote to Mr and Mrs M a letter expressing his view of the adequacy of the care and treatment which SM had received and expressing the hope that SM would not look back too harshly on his few weeks at the school. The letter did not evidently reach Mr and Mrs M but a copy was later sent and on 2nd May Mrs M replied enclosing some documents for Mr Mair's interest and recording that SM was pleased about the possibility that the staff and boys might visit Orkney and expressing the hope that they would do so. SM sent gifts to the school and neither he nor his parents voiced criticism of it.

XI THE INTERVIEWS

I. The Arrangements

- (A) **THE DECISION** **11.1** At the meeting which Mr Paul Lee and Mrs Susan Millar had with D.C.I. Gough and C.I. Ratter on 14th February there was discussion about the removal and the care arrangements required for the children but while there was consideration given to the possibility of interviewing the children immediately on removal it appears to have been assumed without discussion that at least at some stage all the children would be interviewed. So far as the Social Work Department was concerned there was no specific recorded decision that the nine children would be interviewed. On the other hand there was a specific decision by the police that Constable Linda Williamson would interview the children who were placed in care in Highland Region. Mrs Susan Millar subsequently discussed arrangements for the interviewing with Mr Sam McTaggart of the RSSPCC as has been noted in Chapter 4.15. The RSSPCC agreed that Mrs Liz MacLean and Miss Lindsey Stevenson would provide a similar service to that which had been given in relation to the W children. On 6th March while Mrs Susan Millar was in Glasgow she attended a meeting with staff and officials of the RSSPCC. It was agreed that the Society would continue with support and assessment work with the children and would bill Orkney Islands Council for their services.
- (B) **THE PURPOSE OF THE INTERVIEWS** **11.2** Mrs Susan Millar instructed that the interviewing of the children was to be carried out jointly with police officers from the Northern Constabulary in order to establish if the children had been abused. Mr Sam McTaggart considered that the interviewing of the nine children was being undertaken as an investigative and therapeutic exercise, with a possible need for the application of therapeutic techniques prior to further assessment in due course. As he saw it the interviews with the nine children would consist in the first place of assessment including engaging with the children, thereafter ascertaining certain things about them, including a child's perception of his or her position and a child's understanding of the process of the interview. Thereafter interviews would move forward on the basis of understanding what it was that the child required.
- 11.3** Mrs Liz MacLean knew on about 19th February that she would be involved with children of the four families. Her understanding at that point was that she was likely to be involved in interviewing for a period of about a month, and that the purpose of the exercise would be to provide the children with opportunities to talk about the allegations of abuse which had been made by the W children. As she saw it the interviews were to provide assessment and support, with a focus on communication. She saw communication as being the purpose of her work. The other RSSPCC interviewers similarly understood the objective of interviews with children of the four families as being assessment and support. Thus Miss Lindsey Stevenson viewed her role as involvement with the assessment of a child during an interview, rather than gathering information specifically for a proof hearing. Mr Leslie Hood considered it important that he should help a child to feel comfortable within the interview setting. He understood that any questions which he would ask would be less directly concerned with the allegations than those which might be put by the police interviewers. He would be more concerned with the child's background and interests and did not see his role as including involvement in disclosure work.
- 11.4** D.C.I. Gough considered that so far as the police were concerned in the joint process of interviewing they would not be confined to areas of evidential importance, but also contribute to child care aspects of the work. The police

officers taking part in the interviewing nevertheless understood their primary role as being concerned with the obtaining of evidence. Thus Constable Linda Williamson would try to find out when and where certain incidents took place, and who exactly was involved. She considered that Mrs Liz MacLean would also try to obtain evidence during joint interviews, and although she did not recall having any discussion with Mrs MacLean about the purpose of interviewing she was clear in her own view of the matter. Constable Susan MacLaren saw the purpose of interviewing as sorting out whether or not allegations which had been made were true, and was aware of the desirability of having the interviews conducted in a manner which would enable evidence to be given to a court in due course by an interviewer, in order to protect children from the court setting. She considered that her principal function in joint interviewing lay in being able to corroborate anything a child might say. Constables Pamela Ross and Anne Miller regarded the collection of evidence as the chief purpose of their taking part in joint interviews, having regard to the possibility of criminal proceedings.

(C) PLANNING **11.5** Such planning for interviewing of the children as took place is first recorded in Mrs Susan Millar's notes of 14th February, where it is indicated that Mrs Liz MacLean and Constable Linda Williamson were to do initial work with any children received into care. These notes further recorded a telephone call from Mrs MacLean probably on 20th February advising that she would be involved with those received into care to offer continuity and to reduce the likelihood of overloading a new worker, that Strathaven would be able to manage, and that the focus would be the provision of a therapeutic setting for the children to talk about their experiences if they wished to. Mr McTaggart approached Miss Stevenson during the week before 27th February. Miss Stevenson understood that there was to be a joint approach with the police, which was to consist so far as she was concerned of assessment and support with the children from the B family over a period of time to be determined by assessment of the children. Miss Stevenson had a further discussion with Mr McTaggart in Orkney between 25th and 27th February regarding the interview process with the children, the recording of interviews, how the children would travel to Strathaven, and when she would start to see the children. Mr Hood was advised by Mr McTaggart on 1st March that he would be required to take part in interviews and discussion took place regarding the part which he was to play. He received some instruction from Mr McTaggart about the appropriate way in which to approach SM.

11.6 Constable Williamson was told that she would be involved in the interviewing of the nine children during the early stages of planning, but received specific instruction on 26th February that she would be interviewing the T children. Sergeant Hanson had been appointed earlier to allocate the police officers to the interviewing and prepared a draft programme for the holding of interviews over the period 1st to 5th March in Glasgow and Inverness on alternate days with a requirement for four police interviewers other than Constable Williamson who might still be engaged in interviewing the W children. The Operational Order which identified the constables to be involved in interviewing at Appendix 2, envisaged that Constables Ross and Miller would travel to Glasgow by the Saturday morning to 'start disclosure work'. The number of constables to be involved was later reduced to three. Sergeant Hanson's draft programme recorded that scheduling after 5th March was to be arranged to suit the policewomen involved. The interviewers from the RSSPCC and the Northern Constabulary met each other on 26th February at the stage of final preparation for the removal of the children. It is unclear how much discussion took place at that point regarding the proposed interviews. Constable MacLaren learned that she would be responsible for interviewing the H children at the police briefing on 26th February and understood from D.I. Heddle that she would be likely to be working in Inverness for some time. Constable Ross similarly learnt of her role in interviewing on 26th February being given no indication of the likely duration of the work.

11.7 Mrs MacLean met the police officers to be working at Dalneigh on 28th February and agreement was reached that interviews would be joint, that audio recordings would be made where possible, interviews would be limited to one

hour, the pace would be the child's pace and certain specified introductory comments should be made. The starting point for interviews was to let the children know that other children had suggested that adults and children went out together and adults hurt the children. There were subsequently individual discussions between interviewers prior to the interviews. There was however no planning carried out at managerial level for the joint interviewing prior to the removal of the children and such discussion as there was between individuals was not within the context of any overall policy or plan. There was no stage at which any planning for the course of interviews was carried out between the Orkney Islands Council, the police and Mrs MacLean. At a meeting of the Strathaven team held on 4th March it was noted that interviews were to be held at Strathaven and Dalneigh and that the work was to be short term until March 1991, the focus being investigative and therapeutic.

11.8 Mrs MacLean and Constable Williamson met before individual interviews to discuss the method of interviewing and how interviewing was to proceed. Mrs MacLean regarded the working agreement which she and Constable Williamson had reached during interviewing of the W children as remaining essentially unchanged. Some similar discussion before interviews, including matters such as a child's behaviour or what might arise during an interview, took place between the other interviewers.

II. The Personnel

(A) THE RSSPCC **11.9** The work of the RSSPCC has been changing over a period of years, as its traditional role has diminished. Workers specialising in the problems of sexual abuse were appointed between 1986 and 1988, and collaborative work in this field has been developing with local authorities such as Strathclyde Regional Council. The RSSPCC had procedures for the referral of a child suspected of having been sexually abused which included an initial planning meeting and later assessments and reviews at various stages together with the detailed maintenance of records such as referral sheets, field worker's notebooks and day-books which recorded all work done with children.

11.10 The RSSPCC approach to work in the field of child protection was set out in 'Agency Guidelines' which were in the course of being extended and elaborated as at March 1991, revised guidelines being issued in June 1991. The guidelines included a statement that it was an important principle of the Society's approach to seek and obtain specialist involvement where the investigation of facts indicated the existence of serious medical, psychological and social problems in relation to children and families requiring special professional skills. They indicated that 'recording information at the point of referral is a fundamentally important stage in the process of intervention'. They pointed out that confirming and validating information is crucial and recognised that 'it is an objective inquiry into fact which leads to sound assessment and decision-making'. Some simple guidelines in interviewing were given in the later edition of the guidelines but that was not included in the version operative in February and March 1991 nor were the complexities of work in cases of alleged child sexual abuse covered.

11.11 The RSSPCC had been associated with Orkney Islands Council Social Work Department from May 1988. Between then and November 1990, RSSPCC staff had raised a number of concerns regarding the management of the W case with the Scottish Office. Following the reception into places of safety of a number of the W children in November 1990, further arrangements for co-operation between the Society and Orkney Islands Council Social Work Department in the care of the children were discussed at a number of meetings held in Orkney and at the RSSPCC's premises in Glasgow as narrated in Chapter 2.

(B) THE INTERVIEWERS **11.12** Mrs Liz MacLean was team leader of a team of social workers at the RSSPCC's centre at Strathaven, Lanarkshire. After working with the deaf for a number of years between 1970 and 1976, she became involved in counselling adults who had experienced sexual abuse or who had alcohol or drug problems. She then

joined the RSSPCC and began work with children and families where abuse had occurred or there was a risk of abuse occurring. She was seconded by the Society, on a part-time basis, to undertake in-service training at Moray House where she obtained a certificate in social care in 1980 and later obtained a diploma in social work at Jordanhill College. She participated in a short residential course at the Eigenwelt School of Psychotherapy in Morpeth, on working with sexually abused children and adults, had further in-service training with the RSSPCC in 1988 and, in the autumn of 1990, undertook a short sabbatical period of training at the Minneapolis Centre in America for treating sexual offenders. She had had no detailed training in matters of evidence. From 1988, she acted as a practice teacher to social work students from Moray House and had had considerable involvement in training work. By 1991, she had had fifteen years experience in interviewing children, and from 1986 had been exclusively involved in interviewing children in connection with child sexual abuse. She attended a conference in Cleveland in 1989 to discuss the Cleveland Report and in particular the training of social workers in interviewing. Mrs MacLean described herself as a trained person with developed skills, who was continuing to develop those skills.

11.13 Miss Lindsey Stevenson was a case worker with the RSSPCC based at Strathaven, Lanarkshire. After graduating in Sociology from Stirling University in 1982, she worked with children and young people for three years before becoming an instructor at an adult training centre in Glasgow for people with a mental handicap in 1985. She then obtained a CQSW and worked both with a local authority and with the RSSPCC latterly concentrating on work with cases of child sexual abuse. Miss Stevenson had had some training on the interviewing of children who had been sexually abused in her CQSW course and during a placement with the RSSPCC unit. She had also undertaken a joint course, run by the RSSPCC and the Scottish Child and Family Alliance covering aspects of work with sexually abused children. Her training continued at Strathaven, as a member of Mrs MacLean's team, which routinely set aside a period of time each Monday for that purpose.

11.14 Mr Leslie Hood was a group worker at an RSSPCC Centre in Dundee, where he had been employed since June 1987. He held a degree in agriculture and obtained a Community Education Certificate at Dundee in 1986. He had been involved in work with groups of parents and children, including sexually abused children, and in counselling adult survivors of abuse. He had not had experience in joint interviewing with police officers. Neither had he experience of the use of audiotaping or videotaping with children. From early January 1991 Mr Hood had been seconded to the RSSPCC Centre at Strathaven to gain further experience of the Society's facilities. His training had not been specifically concerned with child sexual abuse and his training for interviewing had been based, as he saw it, on the practice of actually undertaking interviews.

11.15 Linda Williamson was a police constable with ten years service. She had been stationed at Kirkwall for three years. During her service she had attended two police courses dealing with sexual offences including child sexual abuse in 1982 and 1989. Several hours of the latter course were devoted to the matter of interviewing children but she did not think she had received guidance on the frequency or number of interviews which should be held with children. She had not received advice on the course about the taking of notes during interviews, but understood that when she was involved in interviewing children she would be taking a full witness statement. Constable Williamson had been involved in the investigation of a number of cases of sexual abuse of children, the majority of which were when she was stationed in the Invergordon area. She had no previous experience in the use of audiotaping or videotaping of interviews with children. She had attended a seminar held in Kirkwall under the auspices of the police and Orkney Islands Council when the joint approach to investigation was instigated. Subsequently she had been involved in joint interviewing with social workers on some three or four occasions in Orkney. Constable Williamson had not received any training by which she would have been able to test Mrs Liz MacLean's approach against what she herself had been taught.

11.16 Susan MacLaren was a police constable stationed at Wick with six years police service. In 1986 she attended a three-day training course concerning the investigation of sexual offences including child sexual abuse which all police women in the Northern Constabulary were expected to undertake during their two-year probational period. She had also attended a one-day course in Inverness on the subject of child abuse in March 1989, and a one-day seminar thereafter in the same year on the joint approach. Constable MacLaren had not previously worked with RSSPCC personnel. She had been involved in taking witness statements and had been involved with the Social Work Department in joint investigations. She had some ability to assess a witness on the basis of her common sense and her experience in the police force but she was not trained specifically in this area.

11.17 Pamela Ross was a police constable stationed at Alness, Easter Ross with seven years police service. She had been stationed at Kirkwall between 1985 and 1989. She had attended a one week training course in Inverness after one year of police service and in May 1988 she attended a one-day seminar on child abuse in Orkney, run by Miss Janette Chisholm. Following her posting to Alness in 1989 Constable Ross had had experience of dealing with a number of cases of physical or sexual abuse of children. She had had practical experience in dealing with situations where third party allegations had arisen where she would ask the subject of the allegations if he understood what was being alleged; if a denial followed, that would be the end of the matter apart from the social work department keeping in touch with the situation thereafter. She had had no experience of situations such as had arisen with the children of the four families. She had had some experience of interviewing children apart from their families or sometimes with foster carers present. She had not been trained to look for signs of stress in a child nor had she had instruction on the different types of question which might be asked in an interview. She did not think that any assessment of her interviewing technique by her superiors had taken place.

11.18 Anne Miller was a police constable stationed at Wick since October 1988. Between 1977 and 1981 she had been stationed at Kirkwall Police Station. In 1982 she attended a one-day seminar on the investigation of child abuse. Between 9th and 13th October 1989 she attended a training course at Inverness on the investigation of sexual offences against adults and children. She had taken part in a number of joint interviews with social workers and had experienced no difficulty with such practice. She had previously been involved with serial interviewing with one child but had had no training in dealing with the particular matter of children denying allegations of abuse. The four police interviewers were regarded by Sergeant Hanson as particularly suited for the work. They were the best she could find. None of the four had read the Cleveland Report.

(C) **BACKGROUND INFORMATION** **11.19** It was not the practice of RSSPCC interviewers to gather full background information at the commencement of a series of interviews. Indeed, Mrs Liz MacLean preferred to commence interviewing with relatively little information. Each case was considered individually in this regard, and she would ordinarily have the age of the child, and information about allegations concerning the child. Knowledge of any handicap affecting a child or any developmental problems would be of assistance in helping to pitch an interview at a level suitable to the child. But the focus would be on a child's communication regarding suspicions or allegations of abuse, and by having only a limited amount of information, it was felt that the reliability and credibility of information eventually given by a child would be enhanced.

11.20 Before Mrs Liz MacLean began interviewing the W children, she was told by Mr Sam McTaggart on 14th November 1990 that seven of those children had been taken to places of safety in Strathclyde; that there had been allegations of sibling abuse; and that the children's father had been imprisoned some years before following convictions for sexual and physical abuse. Mrs MacLean passed on this information to Miss Lindsey Stevenson. Constable Williamson was also aware of the past history and of the results of the medical examinations of the W children. As the interviewing of the W children proceeded, Mrs MacLean became aware

of further information, including the incident when the child SW had not been able to be taken to a place of safety and had been suspected of being harboured at the manse. She also learnt of the correspondence which was sent to the W children and recalled that Mrs Susan Millar had told her in November 1990 that different words might have different meanings. Constable Williamson also saw the correspondence and after making some inquiries was able to tell Mrs MacLean the identity of many of the authors of it. Mrs MacLean was aware of the contact which MW, QW, and SW had at Christmas 1990 when they met to exchange presents under supervision. She also knew of the chance meeting between BW, LW and HW in early 1991. The information which Mrs MacLean gathered over the months of contact with the W children, was gained in an unstructured and occasional way. None of the information was specifically focused on the stage of development of each of the W children whom she was interviewing. It was not sufficient to enable her to make an assessment of each individual W child or their emotional and physical stage of development. Miss Lindsey Stevenson's knowledge of the background to the W case did not develop after the W children moved to Highland Region, when she ceased to have contact with them.

11.21 Information about the family background of the nine children was also limited. The RSSPCC interviewers all had access to the pen pictures. The interviewers who had been directly involved with the uplift of the children had the experience of meeting the children's parents and seeing the family home. They also were involved in taking the children to their placements. Mrs MacLean received a verbal account from Mrs Millar of the debriefing meeting held on 1st March but she had no written accounts of the social workers or police involved in the uplift. Miss Stevenson was given some information about SB's behaviour in the foster home on the evening of his arrival when he had been reciting a strange rhyme and passing his finger through a candle. Miss Stevenson also knew from WB and EB's foster mother of WB's upset on the night of her arrival and how she was missing her mother. She was also advised about WB having seen some media coverage about the uplift but the extent of information was not known.

11.22 Background information about the allegations was available to the interviewers of the nine children on a limited basis. All attended the police briefing meeting on 26th February where D.I. Heddle gave an account of the allegations made by the W children. The RSSPCC interviewers Mr Leslie Hood and Miss Lindsey Stevenson had attended the session in the afternoon of 26th February held in the Social Work Department when Mrs MacLean had spoken of the work with the Ws and answered questions about the nature of the allegations. Constable Williamson had of course full information from her interviews with the Ws. Thus all the interviewers had some information about the nature of the allegations. The police interviewers had chosen not to read the summaries of the significant interviews with the W children which police personnel had available at the briefing meeting.

11.23 Constable Linda Williamson had information on certain matters concerning the families of the nine children before interviewing commenced. Thus she knew at November 1990 that Mr M was a teacher. She had obtained information from Kirkwall that a lady S referred to in the W children's allegations was Mr M's wife. She recalled having been told at some point that the T family were Jewish, but knew nothing of the T children at the time of their uplift apart from their approximate ages. She did not see the pen portraits. By 1st March Constable MacLaren knew about the absence of medical evidence of sexual abuse and about the detention and subsequent release of the parents. She knew nothing of the background of the H children or of JM, except where they lived and that JM had an elder brother and sister. She was told by Mrs Norma Buchanan on the evening of 27th February that PH had said on the aeroplane that his mother and father had never hurt him. Constable Miller alone of the police interviewers thought that she had seen the pen portraits.

11.24 The level of information which the interviewers had on both the allegations and the background of the nine children was very varied. None of them had any extensive background information on the individual children's stage of development or family setting. None of them had assistance from their managers to help

them to allay their anxieties about possible accusations of contamination at a later date should they have background knowledge beyond the barest of details.

(D) RELATIONS WITH CARERS **11.25** As the RSSPCC workers saw it the extent of any contact between the carers and themselves should be restricted to matters concerning the well-being of the child. They also saw it as important to let a carer know if they felt there was a possibility of distress or of some unusual behaviour that the child might display as a result of an interview. They did not see it as appropriate to give the carer details of what the child was saying in an interview nor to receive detailed information from the carer about what the child had been saying in the foster home.

11.26 Mrs MacLean was selective particularly in the early stages of work about the information taken from carers. She preferred a supervisor to hold all the information and for that person to decide what the interviewers should know. She also felt that children were making choices regarding the person to whom they would tell information, particularly in the early stages and that it was not helpful for both interviewer and carer to have the information. Mrs MacLean understood the case manager for the nine children to be holding all the relevant information from all sources. While agreeing that information from the foster carer would enable the interviewer to assess the child better she did at times decline detailed information from a carer to see how matters developed purely from the child's point of view. This happened for example on 22nd March when PH's carer had detailed information about what PH had been saying and doing in his placement; Mrs MacLean declined to receive it in favour of waiting to see what information PH would give her directly. She did on that occasion discuss with the carer how best she might cope suggesting that she continued to listen, encourage and reassure PH if he wished to tell the carer about experiences or information which might be distressing.

11.27 As narrated in Chapters 6 and 10 Miss Stevenson and Mr Leslie Hood visited the three B children and SM in their respective placements on 28th February to explain about the interviews. They spoke with the foster carers but not extensively with any of the staff at Geilsland. SM said that he was willing to come and an appointment was made for 2nd March.

11.28 Miss Stevenson offered contact to the carers by phone or face to face. She subsequently saw the carers at Strathaven when they brought the children for interview. These contacts were informal and no substantial information was passed to the carers about the interviews thus preserving the child's confidentiality. The information from the carers about any matters relating to the child's well-being was seen as important by Miss Stevenson but neither carer felt that the interviewers were sufficiently concerned about the well-being of the children in the foster home. They also felt a lack of any in-depth discussion with them about any information they were giving or about how they might approach behaviour arising at home. The diaries which Strathclyde foster carers routinely kept were not used to any extent by the interviewers although they contained considerable information about the children. As has already been noted in Chapter 10 WB and EB's foster carer and SB's foster carer regretted that they were not sharing in the work as part of a team as they were used to doing. Similarly Mr Mair and his staff would have liked to have been more involved in the interview work but they understood that the decision had been made by Orkney Islands Council that there was to be a division of function between the RSSPCC and the school. Mr Roy asked to be present at an interview but this was declined. The staff regretted not having more information about SM as an individual and Mr Mair doubted the usefulness of this separation of interviews from care.

11.29 The police interviewers had relatively little contact with the carers. Constable MacLaren had limited contact with the carers for the H children. She was aware that they were keeping notes about the children but these notes never came into police possession. Constable Ross was aware of the educational issues with the B children and their carers but had no part in any discussions about this or other matters.

11.30 In relation to other matters affecting the children's care namely access and correspondence the interviewers did not see themselves as having a part to play in those decisions. Mrs MacLean saw the matter of the correspondence as being dealt with by the co-ordinators although she did look at some mail Mr Hersee brought to Dalneigh. She did not know who in Orkney Islands Council was responsible for decisions about the children writing home so that when JM asked for permission to write to his parents on 12th March she could not tell him who could make that decision. When JM asked again on 21st March about writing home Mrs MacLean had to reply that the co-ordinator, Mr Hersee, was responsible for such a decision.

(E) THE JOINT APPROACH **11.31** As had been the general practice with regard to the W children the children of the four families were each interviewed by two interviewers, one being a member of the RSSPCC staff and the other a police officer. Thus there was joint interviewing between Mrs Liz MacLean and Constable Williamson with the T children; between Mrs MacLean and Constable Susan MacLaren with the H children and with JM, except for an interview when Mrs MacLean was joined by Constable Anne Miller to interview JM; between Miss Lindsey Stevenson and Constable Pamela Ross with the B children; and between Mr Leslie Hood and Constable Miller, and later Constable Ross, with SM.

11.32 So far as the interviewers were concerned there was little planning on the implementation of any joint approach. Each had their own understanding of the purpose and function each was to perform but there was no discussion on how those would fit in with each other. Mrs MacLean considered the joint approach offered a child the same opportunities to look at feelings, to be supported and to build up relationships as in a solo interview. She saw responsibility for interviews as shared with neither interviewer having a lead role. If disputes over methodology arose, she would expect each interviewer to seek assistance from their senior managers. In a joint approach Mrs MacLean saw no problems if interviewers had different levels of information; it could all be shared at some point. Miss Stevenson had general discussion with her co-interviewer prior to joint interviews with some consideration given to planning and to aspects of the child's behaviour. Miss Stevenson had experience of working jointly with the police and was aware of the different roles which she saw each of them as having - the police to gather evidence, while she offered the children assessment and support. In joint interviews she saw no specific person having the lead role. Mr Hood saw his role in a joint approach as distinct from the police. He would meet the police officers prior to interviews to consider what might emerge in interviews. Mr Hood saw his role as providing support for the child while the police would be gathering evidence. But there was no discussion on general aspects of interviewing or technique between Mr Hood and the police.

11.33 Constable Williamson understood her role in a joint approach to be to collect evidential information while Mrs MacLean was looking for more wide ranging information to pass on to the Social Work Department. She would have preferred interviewers to have the same objectives but she found no problems in a joint approach, and could see no reason why all relevant information should not be shared freely between all the agencies involved. Constable MacLaren also saw her role in a joint approach as primarily that of a police officer. As she saw it her main duty was to collect evidence but she also required to be aware of considerations affecting the child's welfare. Despite this being a joint investigation Constable MacLaren regarded Mrs MacLean as a more experienced interviewer and initially followed her lead. She saw no need to question any aspects of Mrs MacLean's approach and found Mrs MacLean always made time to discuss any matters about the interview with her.

11.34 Constable Ross understood her role in a joint approach was to collect evidence. She would have liked to have had time to go over the RSSPCC's interview methods as they were unfamiliar to her at the start. She initially let Miss Stevenson commence the interviews but found herself able to join in quickly. Constable Ross saw Miss Stevenson's role as supporting and helping the child through any difficult points. She saw responsibility in a joint interview being

equally shared by the two interviewers, but with the benefit of preventing children having to go over a story more than once. Constable Anne Miller understood the joint approach to investigation of cases of child abuse to have as its purpose a benefit to the victim of reducing the number of interviews which the victim had to undergo. She had taken part in a number of such joint interviews and found no difficulty in them.

III. The Facilities For Interviewing

(A) THE PLACE **11.35** There had been three locations of interviewing used for the children from the W family throughout the period November 1990 to March 1991 namely Strathaven, Killen and Dalneigh. The interviews with the nine children took place at Strathaven and Dalneigh. Strathaven, also known as Glenavon Lodge, is a purpose-built RSSPCC centre for work with children, operational since the middle of 1990. In November 1990 audio and video equipment was available. Strathaven is a five-roomed bungalow, including office and household kitchen in which there were juice and crisps and sometimes biscuits and sweets. There is a large room with soft comfortable chairs and a small room equipped with toys and other play material. This small room has a screen which is linked to an observation room. The only microphone in Strathaven is located in the small room. The audio and video facilities are operated by equipment in the observation room. The free accessibility to all parts of the building and the choice children have of where they wish to be seen reduces the possibility of consistent use of taping facilities.

11.36 Dalneigh House is a bungalow in Inverness designed as a victim support centre provided by Northern Constabulary and it has a fully equipped medical examination room which has less formality than one provided in a police station or hospital. Audio equipment was installed and operational at Dalneigh by the 20th of February 1991. Dalneigh is equipped with comfortable ordinary furnishings and fittings. There is a children's playroom, an interview room and a sitting room used mainly for adult victims and a kitchen where snacks can be made. The microphone for audiotaping is located in the children's playroom. The playroom can be viewed from a small screen in a cupboard adjacent to the playroom. No video equipment was provided during the period that either the W children or the five children were being interviewed at Dalneigh.

11.37 Transport to and from the centres was arranged efficiently for all children. Following on the meeting at Annfield Place on 6th March Mr Philip Greene took on the arrangements for transporting the children to Strathaven. There was pressure on WB and EB's foster mother in having to occupy one girl while the other was being interviewed with the result that she had no break from caring for the girls during their absence from her home to attend interviews. Efforts to resolve this were only successful very late on in the process by the provision of a social work escort for EB. Mr Paul Hersee was responsible in Highland Region for arranging transport to take the children to Inverness.

11.38 The care of the children at the two interview locations was satisfactory. It was normal practice for children coming for interview to be provided with refreshment. Mrs Liz MacLean generally ensured that soft drinks and crisps were available in the kitchen at the interview centre. A small selection of sweets was sometimes available at Strathaven. The children were freely permitted to eat crisps and drink coca-cola. On 6th March WB told her foster mother that she had given Mr Leslie Hood a list of what she wanted the next time she came, which included raspberry ripple ice cream. When they went the next time Mr Hood explained that he had only been able to obtain vanilla. It was also discovered that the orange juice which was supplied to the girls at Strathaven caused EB to become unduly excited and the staff were asked by the foster mother to stop supplying it. EB's reaction to orange juice had been mentioned by WB on the day of their arrival at the foster home.

(B) RECORDING **11.39** When interviews with the W children were being set up the clear intention was to record interviews where possible by videotape or at least audiotape. For

the W children the initial sessions were not to be recorded because of the behaviour of the children and also to allow them time to settle before any attempt was made at mechanical recording. Following these early interviews the interviewers compiled summaries of the interview noting any significant points. Constable Williamson also made notes in her notebook sometimes in identical terms to the summary and sometimes with more or less detail. Mrs MacLean made no notes during or after interviews, feeling the need to concentrate totally on the child during the interview. After interviews Mrs MacLean depended on the police interviewer's notes, on drawings and on a joint discussion about the content of the interview in order to reach a record of the agreed points from the interviews. Some of the interviews with the W children were tape-recorded in November 1990, but when the children moved to Killen in early January there was no recording equipment available and none at Dalneigh until 20th February 1991. The managers in Orkney believed audiotaping was taking place for all interviews.

11.40 No clear general instruction was given about the type of recording that was to take place in relation to the nine children. At the briefing meeting on the 26th of February some indication was given to the police officers involved with interviewing to tape-record all interviews where possible. The RSSPCC workers involved in interviewing met Mr McTaggart at Strathaven on 4th March and a note of that meeting indicates that sessions were to be audiotaped and if no audiotaping took place written summaries would be made. The RSSPCC interviewers, Mr Leslie Hood and Miss Lindsey Stevenson, felt that the recorded minute was ambiguous and that the discussion rather reflected that audiotaping should be made where possible with minimal notes but where no audiotape was used then full notes would be made of the content. The audiotapes were taken away by the police for transcribing. The task of transcription was a substantial one and a considerable time elapsed before written transcripts were available.

11.41 The audiotaping of the interviews with the nine children was not complete. No audiotaping took place of interviews with BT on 1st, 3rd, 5th and 7th March; or of interviews with MT on 28th February or 3rd March. In the case of the B children, such written records as Miss Lindsey Stevenson kept were along the lines which she considered were required where audiotape was used. But no audiotaping of interviews with EB took place on 4th or 16th March; there was no audiotaping of interviews with SB on 4th, 8th or 15th March; and a similar lack of audiotaping of the interview with WB on 4th March. Interviews with SM were not audiotaped at all, although in this case Mr Leslie Hood made useful notes which as Dr Trowell pointed out would have been adequate had they served as a back-up to audiotaping or videotaping. Interviews with PH and with TH were not audiotaped on 1st or 3rd March. It was impossible to assess what information had come spontaneously from TH during the sessions, and what information had not so come, without tapes. Lack of audiotaping of JM on 28th February led to confusion about what had transpired in his contact with Constable MacLaren at that interview, although she agreed in evidence that it was an error on her part not to have recorded the session.

11.42 Miss Stevenson understood that there had been agreement from Orkney Islands Council not to tape the first two introductory sessions, using those as visits to assess whether the child could be taped. But Mrs MacLean understood that the agreement was that recording would be undertaken as soon as the child had settled. She understood the police would take notes during any untaped sessions and those notes would be used to contribute to a joint summary prepared after the interview. She also indicated that she expected interviews to be recorded when this was possible and indeed wished taping to begin whenever the child was settled in the interview room. Constable Williamson who had been previously involved with the W children assumed that there would be no recording for the first two contacts. This had been agreed at the start of the interviews with the W children in November 1990.

11.43 Note keeping was generally brief, although some police notebooks had more extensive reports and one interviewer, Mr Leslie Hood, kept fuller notes of interviews with SM than any of the other interviewers did during interviews with any of the other eight children. In Highland Region the police officers

involved in interviewing with Mrs MacLean all kept notes in their notebooks but with varying levels of detail. The police officers both at Dalneigh and at Strathaven were clear that notebooks were for recording matters of evidential value and not opinions and gave little idea of how topics were raised. At Strathaven Miss Stevenson understood that sessions were to be audiotaped and no further note would be required of audiotaped sessions. She made some summaries of interviews which were untaped and wrote brief contemporary notes of matters raised when any of the children were outwith the interview room. Mr Leslie Hood also understood that if the interview had been taped he was to note that and only if there was no tape was he to keep full notes. No process records, containing a full description and account of the interview, were prepared. The operation of what is known as process recording entails, as Dr Trowell explained, writing down as much as possible of what was actually said, what happened, what was done, and the mood and behaviour of the child. Such records would also include a comment from the interviewer on the impact of the interview on them and on their own emotional reactions. Experienced interviewers should be able, as she indicated, to record around eighty per cent of the substance of an interview immediately after it. There were no detailed recordings of this type made by the interviewers of the nine children. Recording of this nature requires adequate time immediately after the interview to ensure accuracy and detail. Mrs MacLean reported by telephone to Mrs Susan Millar on the interviews conducted in Highland and in Strathclyde relying as regards the latter on information passed to her by Miss Stevenson.

11.44 There was no videotaping of any of the interviews with the nine children and no debate took place about the potential of videotaping those interviews. There was simply a carry over of practice from the assumptions about the W children that videotaping would not be possible because of the suspicion and fear which the W children displayed. There had been one videotape made of QW on the 27th of November 1990 in an interview at Strathaven with Mrs MacLean and Miss Stevenson but following discussion the interviewers felt the quality was too poor to be useful and no further attempts were made at videotaping interviews. The video of QW gave a reasonably clear picture of the interview albeit slightly distorted, as the interviewers were trying to prevent QW from observing the camera which was operating through the one-way screen. No particular consideration was given to the use of videotaping with the different group of children who were removed on 27th February. Videotaping of interviews was recognised by several interviewers as the most comprehensive way to record as it gave a whole picture of the child rather than just their words. The feasibility of using a hand-held video in Dalneigh was not explored but an assumption was made that it would not be a feasible method of operation, as, in Mrs MacLean's assessment, none of the children reached the stage where they could tolerate video being used during the period in which she and others were interviewing them.

11.45 Drawings were made by several of the children throughout the period of the interviews. Some drawings were done wholly by the child, some partly by the child and partly by the interviewer and some wholly by the interviewer. The drawings were not labelled in any way to identify how they had in fact been created. Some children took drawings home with them after an interview, leaving no record of what had been drawn with the interviewer.

(C) MANAGEMENT AND SUPERVISION

11.46 Mr Sam McTaggart took up the post of Divisional Manager in the RSSPCC in 1986, subsequently having responsibility for four social work teams each comprising a senior social worker and four social workers. One of these teams with Mrs MacLean as senior member of staff was based at Strathaven. Mr McTaggart was based in the RSSPCC premises in Glasgow between November 1990 and April 1991. As noted in Chapter 4.15 he referred the request by the Orkney Social Work Department for Mrs MacLean's services to his management and after further discussion with her she became engaged in the interview work.

11.47 Mr McTaggart saw Mrs MacLean as being in charge of the RSSPCC side of the interviews, and as having responsibility for reporting to Orkney Islands

Council on information arising from them. He regarded Mrs MacLean as responsible for her own practice and did not see the need for anyone to supervise her. He was confident about her skills, viewing her as experienced and careful, and accepted without question that her techniques were sound. He had observed one of her interviews in July 1990. She had also undertaken a number of joint interviews with Mr McTaggart, who provided feedback on her methods and indicated that he viewed them as appropriate. He did not see any dangers in her continuing into interviewing the nine children directly after interviewing of the W children.

11.48 Mrs MacLean saw Mr McTaggart as her manager and her supervisor. As her manager he would oversee her work. She would update Mr McTaggart as her supervisor on her contact with the children and provide him with copies of summaries and transcripts as available. She received feedback from him about how she was seeing the child and the child's communication, as well as how she herself was. Meetings were held at Strathaven between her and Mr McTaggart and while interviews were in progress they had daily telephone contact. She understood this was to allow Mr McTaggart to be reviewing the child's position regularly. She regarded Mrs Susan Millar as the case manager having an overview of the output of the interviews. Mr McTaggart regarded reports made to him to be for information only and not to enable him to influence the process of the interviews.

11.49 Mrs MacLean considered that Mr McTaggart fulfilled the role of team leader at Strathaven for the whole period she was working with the children in Highland and believed he was managing the interviews there so as to enable her to conduct the more interviews at Dalneigh. That role ordinarily included provision of supervision to staff in the Strathaven team which she led. Thus Mrs MacLean understood that Mr McTaggart was responsible for supervising Miss Stevenson and Mr Hood, providing support and consultation to them, although Mr McTaggart's understanding was that Mrs MacLean continued to be responsible for that supervision. Mrs MacLean continued to attend the weekly team meetings at Strathaven whenever possible and travelled frequently between there and Highland. At Strathaven she checked and responded to her mail and considered her notes of contact from the interviews. She was also available at those times to support Miss Stevenson and Mr Hood informally.

11.50 Miss Stevenson understood that Mr McTaggart would be her manager for the interview work with the children. She met him regularly during the period in which she undertook interviews with the B children, giving him verbal summaries of the interview, and discussing the progress and future direction of the work. She saw this level of supervision as greater than that which she normally received. She recalled periods of supervision as lasting between fifteen and forty-five minutes, and considered that this was sufficient time to raise any matters with him. Her supervision was not formally timetabled. Miss Stevenson could also meet Mrs MacLean on the Mondays on which the latter was at Strathaven, for support and consultation, if she wished, and Mrs Susan Brown was available to her in a similar capacity. Miss Stevenson saw herself as having a choice as to whether she discussed interview methodology with Mr McTaggart or with Mrs MacLean. Mr Hood continued to meet Mr McTaggart at intervals, usually shortly before an interview with SM, and was also aware that Mr McTaggart was available at Strathaven on Mondays. Miss Stevenson saw assessment of her interview techniques as a continuing process ordinarily taking place through the weekly team meeting. She understood that the police considered that the interviewing was going well. The development of a trusting relationship with the children was discussed between her and Constable Ross. Mr Hood similarly regarded the team meetings at Strathaven as providing training.

11.51 During the interviewing Constable Williamson saw Sergeant Hanson daily and also met D.C.I. Gough regularly. She had no directions about conduct of the interviews prior to their commencement and no indication as to timescale. Constable Williamson recalled no instructions on the conduct of the interviews nor on recording methods. She saw herself as receiving adequate supervision of her work during the period of interviews but Sergeant Hanson did not consider that she was in a position to evaluate Constable Williamson's technique. Constable

MacLaren felt it was left to the interviewers to decide on detailed arrangements including numbers of interviews and their length and timing. Constable MacLaren believed she could always refer to Sergeant Hanson for advice and she reported to her almost daily but received no directions about what to ask the children. Constable Ross had no discussions with senior officers about the planning of the interviews. She reported regularly to Sergeant Hanson, usually by telephone although there were one or two meetings of an informal nature. She also made a lesser number of reports to D.I. Heddle. Constable Miller similarly had no discussions with senior officers to plan the interviews. During her short period of involvement she had regular discussions on the interviewing with Sergeant Hanson. None of the police officers involved in interviewing the nine children had any assessment of their interviewing technique carried out prior to or during the interviews. Constable Ross had her own views about how she was undertaking her interview work but did not know whether what she was doing was correct or not.

11.52 A number of persons were available to give support to the RSSPCC interviewers. Miss Chisholm offered Mrs MacLean support and supervision on an informal and personal basis. They discussed how Mrs MacLean was handling the situation and how she was feeling. The contact was found by Mrs MacLean to be stimulating and refreshing. This channel of support was known to and approved by Mr McTaggart. Dr Furnell, a clinical psychologist, was employed on a sessional basis by the RSSPCC from January 1991. He was to be involved in offering support to the Strathaven team of workers and examining practice with them. Such support as Dr Furnell provided did not deal with any detail of the team's involvement with interviews of the nine children. Dr Ann Stafford, a Policy and Research Officer with the RSSPCC, was also available to Mrs MacLean, who discussed with her some aspects of the interviews she was undertaking. Mrs Susan Davidson, Training Officer with the RSSPCC, was also available to offer advice to the RSSPCC interviewers. Mrs Susan Brown was available to Miss Stevenson for support and counselling at Strathaven. There was also a psychologist available to members of the Strathaven team if they wished to discuss individual children.

IV. The Interviews

(A) THE HISTORY **11.53** At the outset EB and WB were taken together to Strathaven to be interviewed by the RSSPCC and the police. They travelled there initially by taxi with their foster carer. The girls were interviewed separately so that the foster carer had to occupy the one of them while the other was being interviewed. Usually she would take the one for a walk around Strathaven during the other's interview. On three occasions during the later period of the interviewing EB was taken by herself. Those were on 13th, 15th, and 22nd March. On one occasion WB and EB saw SB at Strathaven as he left the building. They waved to him but SB was running down the path and not looking up. It was pouring with rain.

11.54 EB was interviewed on ten occasions between 2nd March 1991 and 22nd March 1991. All interviews took place at Strathaven and were carried out by Miss Lindsey Stevenson and Constable Pamela Ross. The interviewers found EB to be very excitable. She frequently punched and kicked them, but settled down as the interviews progressed. Despite this aggressive behaviour it was found that she was at times communicative and talkative. At the first interview on 2nd March the interviewers indicated to EB their belief that people had hurt her on parts of her body. EB denied that this had happened. She indicated that the information which the interviewers had might have been made up by people who had a grudge against the English, as it was all English children who had been taken away. The interviewers reassured her that she had not done anything wrong, and that they were there to listen to her and to help her. EB raised a number of matters relating to her life in Orkney. She was asked about parties at Halloween and eventually talked about a circle and drew a picture with a group of small circles and an arrow pointing to them. She then said that this was a crowd of people. She later scored this drawing out stating that it had been her imagination and that she had made it up. She also talked both about Halloween and Christmas parties. The interviewers

returned to their knowledge that people had said that EB had been hurt on parts of her body but EB denied that she knew of any such activity. When the foster carer returned at the end of EB's interview to leave WB and take EB for a walk around the town EB was in a state of high excitement, jumping all over the place.

11.55 On 4th March 1991 EB remained very unsettled and chose to run about the building, lock herself in the bathroom and run outside. On this occasion WB had gone to her interview first and the foster carer had talked to EB about Orkney while WB was being interviewed. EB told her that she did not like Sunday School and that the minister had come to their house. On a later occasion some weeks later WB heard of that remark and corrected it with the statement that it was not a minister who had come but a Jehovah's Witness. On each of the first two occasions the girls were quiet on the way back home but on the second occasion the atmosphere in the taxi was very tense. The girls said that they did not like going to Strathaven and the foster carer tried to reassure them that the interviews were to help them. EB was upset and angry and the foster carer thought that WB was about to explode. Both WB and EB said that they had been told by Pam Ross and Lindsey Stevenson that they knew that someone had hurt them. The foster carer spoke first to EB on her own when they reached home. EB and WB then successively gave the foster carer an account of what had happened at their interviews. WB said that the interviewers had kept going on and on at her although she had asked them to leave her alone. Both children said that they did not like the workers. The foster mother reported this at the meeting the following day. It was not clear whether what the girls had been saying related to the interviews which they had had on the 2nd or those on the 4th of March.

11.56 On 6th March 1991 EB remained in the interview room for a short time, showing the interviewers how to make paper aeroplanes, but then went outside again. At the previous interview and this one, as at the following one on 8th March, EB remained aggressive and expressed much vivid and violent fantasy. It was however to her foster carer on 8th, 10th and 11th March that she spoke of bullying at school which had caused her some concern. On 11th March she was more settled, talked about her home life in Orkney, and drew a plan of her home and surrounding area, telling the interviewers who lived in each house. She completed this plan at the interview on 13th March. During the remaining four interviews EB played and talked with the interviewers, latterly indicating that she enjoyed spending time with them. She preferred to keep many of the drawings and models which she made. On some occasions she became deliberately uncooperative and hid in the garden. On other occasions she deliberately went silent, played with teddies or threw soft toys at the interviewers.

11.57 WB was interviewed on seven occasions between 2nd March and 20th March 1991. All interviews were conducted at Strathaven by Miss Lindsey Stevenson and Constable Pamela Ross. The interviewers considered that their contacts with WB varied according to the mood WB was in; at times she would be quite cheerful and talkative, but on other occasions became quiet and fell into long periods of silence when she preferred not to talk at all. At the interview on 2nd March the interviewers immediately raised with WB the question of whether she knew why she was there. They indicated that people had been saying that she had been hurt on parts of her body, and asked WB if at any time she gathered with a group of people where she or others were touched or hurt in any way. Miss Stevenson considered that the interviewers had introduced the matter in a gentle and sensitive way although they had indicated to WB that they believed the information which had been given to them. Nevertheless, in Miss Stevenson's view, the use of the word 'believe' in the explanation given to WB had been gentle rather than assertive. When WB insisted that nothing had happened to her, the interviewers tried to reassure her that they would listen to her, but they continued to indicate their belief that she had been hurt. Drawings were made in an attempt to illustrate the situation which the interviewers wished to discuss. These included a circle with someone in the middle of it. Miss Stevenson could not recollect who had drawn that picture or how the circle had found its way into the conversation. However, the interviewers were aware that there had been media coverage of the allegations, and wished to determine whether, if they introduced the matter of

the circle, WB would react to this. The response from WB was that the circle meant nothing to her. It was again put to her later in the interview, as was a picture of a turtle. WB said the allegations were utter rubbish. She also indicated earlier in the interview that although she did not know why allegations had been made, someone obviously did not like the English.

11.58 During subsequent interviews the policy was changed. Although the interviewers returned from time to time to the allegations, an increasing amount of time was spent in discussion with WB about her life in Orkney, her friendships, and her experience of her foster placement in Glasgow. During the interviews of 4th, 6th, and 8th March the interviewers and WB increasingly established a pleasant relationship. On 8th March WB again asked her foster carer if she thought she had been hurt. The foster carer said that if there was anything which she wanted to tell her she should do so. By 11th March WB was able to talk at some length about her home situation. She asked during that interview when she might be able to see her brother SB, and was told that the interviewers did not know at present. On 16th March WB indicated to the foster carer that she thought that the foster carer was lying to her about what she knew. The foster carer endeavoured to reassure her. During the interview of 18th March WB asked again about seeing her brother, telling the interviewers that she knew why they would not let her see him. She indicated that this was because they thought she would tell him not to say something, saying that that was what her foster carer had told her. The interviewers returned again to the allegations and their belief that WB had been hurt, indicating that they recognised WB's persistence in saying that nothing had happened to her but going on to suggest there might be reasons for this. WB also referred to her need to select school subjects during this interview. At the final interview on 20th March WB and the interviewers made plasticine models together in a relaxed atmosphere. WB thought in retrospect that she was interviewed for approximately one hour every two days, except for the last two weeks of her period in care. She said that she found the interviews more like questioning with the same question being asked repeatedly.

11.59 SB was interviewed on ten occasions between 2nd March and 22nd March 1991. All interviews took place at Strathaven and were carried out by Miss Lindsey Stevenson and Constable Pamela Ross. The interviewers found SB to be communicative and talkative on his first visit to Strathaven, although at times during a number of subsequent interviews he appeared physically and verbally aggressive, frequently throwing toys at the interviewers and calling them abusive names. As the interviews progressed, he became somewhat quieter and appeared content to remain in the interview room for long periods. On one occasion SB saw his sisters arriving in a taxi at the house at Strathaven but while this embarrassed his foster mother it did not appear to have any significant effect on him. SB and his foster mother hid in another room so that WB and EB would not see them.

11.60 On 2nd March 1991 the interviewers told SB of their belief that people had hurt him on parts of his body. The outline of a figure was drawn for him by the interviewers, and he was asked if he could mark on this figure the part or parts of his body where he might have been hurt. SB marked the genital area with a pen and stated that EB had hurt him there with her foot, later clarifying this by stating that she had kicked him when they were on the bus. SB then marked the stomach area on the figure which had been drawn, and indicated that he had been punched in the stomach by a male person whose name began with the letter J. He wrote names around this figure of people who had hurt him by punching and kicking him. Later during the interview he drew another picture of a person, colouring an area of the figure's chest with blue pen and stating that hearts were blue and that he had read about that in a book. He wrote another name on the figure, telling the interviewers that this was another person who had hurt him. During the interview of 2nd March the interviewers continued to remind SB of their belief that people had hurt him in other ways but reassured him that he could trust them, and that they were there to help him.

11.61 During the interviews of 4th March and 6th March 1991 SB was particularly aggressive towards the interviewers. On 4th March he was permitted to remain in the kitchen to sit at the table. SB asked Constable Ross to write names

around a figure which was drawn for him and explained that this was another group of people who had hurt him. SB wrote words on the figure and explained to the interviewers that they read 'she slaps across the face,' 'pulls her hair out,' and 'C tries to grope you'. He drew a further figure with a single line through its body but said he did not know who this person was. On 6th March SB talked about 'pricks' which he said were for either poking or spiking people. He lifted a toy doll, separated its legs, and then placed his hand between its legs stating that he was hurting the doll or that the 'prick' was poking the doll.

11.62 On 8th March SB again wished to stay in the kitchen. He drew a picture of a large male person with a smaller male person; the large person had a knife in his hand which he was holding near to the smaller person's head. SB stated that this picture showed LT's husband or father stabbing BW in the head, killing him. SB said that BW was now dead and could no longer talk. SB came to the interview on 11th March with a list of names which he had written over the previous few days with his foster mother, again of people whom he said had hurt him. He gave this list to the interviewers. Again a figure was drawn for SB and he was asked if could mark the figure where the people had hurt him. As at the previous interview, he continued to be very active and aggressive, introducing sexual material in his talk and becoming very rude and abusive. This continued although to a lesser extent on 13th March, as the interviewers continued to return to the matter of SB being hurt. SB told the interviewers that he was unhappy at being taken away from his mum. On 15th March SB again remained in the kitchen and talked about his life in Orkney with the interviewers. He was much quieter on this occasion.

11.63 On 18th March he asked about his sisters, and spoke about running away and trying to get home. The interaction with the interviewers was much calmer and this improved atmosphere remained during subsequent interviews. On 20th March SB made an accurate model out of plasticine of a 'teenage mutant hero turtle', telling the interviewers that he liked playing with turtles and had frequently watched them on TV. He also made figures of the drawing which he had done on 8th March, instructing Miss Stevenson to make a small figure as BW while Constable Ross was to make a larger figure of LT's dad. SB made a knife also out of plasticine and when all three objects were complete, he placed the knife in the hand of LT's dad putting a piece of red plasticine on to BW's head to indicate that BW had been stabbed on the head by the knife. SB said that another small person, whom he named, had been killed; he described this person to Miss Stevenson and told her to make a plasticine model of him also, the figure to be lying down, as SB said that he was to be lying dead. During this interview and the interview on 22nd March SB persistently asked why he could not see his sisters, or even telephone them. The interviewers indicated that this was not possible but were supportive in their responses to these requests. SB also said that he missed his dad and was concerned about when he would see his dad again.

11.64 SB recalled the interviews as occurring for an hour every second day. He thought that the interviewers were trying to get him to say things about people. As he recalled it they drew a circle and got him to draw pictures of the men who would be in the circle; he drew one exploding; he threw files at them and swore. He was asked if he had been touched or kicked on areas of the body illustrated in a drawing. He was not aware why he was being interviewed. Except on one occasion weekends were avoided as that was the only time that the foster mother could have with her own family. SB travelled by taxi usually accompanied by his foster mother who waited for him during the interview. On one occasion she was unable to take him and two social workers took him in her place. The journey took about an hour and the interviews lasted between one and a quarter and one and a half hours. SB sometimes felt sick on the journey when the visits required him to leave immediately after breakfast. He was given a fizzy drink on his arrival which his foster mother did not think was good for him at least early in the day and was also given sweets, ice cream and cakes.

11.65 SB felt angry and confused and his foster mother thought that he would have been better at school. He was in an excited state of mind after the interviews. While at Strathaven he was free to roam about the house. He locked himself in

the bathroom on one occasion. On some occasions he seemed fed up and the interviews would be terminated earlier than usual. SB liked the toys which were available for him there. Eventually as the interviews progressed he became less excited and more relaxed. He was usually perky when the sessions were held in the afternoon but he was subdued and tired when he went for morning sessions.

11.66 PH was taken to his interviews with the RSSPCC by his foster mother. This involved a journey of about thirty miles. They journeyed to and from the interviews by car. PH was excited and pleased to see Constable MacLaren and Mrs Liz MacLean and he used to play tricks on them. Sometimes he seemed upset but was fine after the interview was over, often jumping about and as his foster mother described it 'as high as a kite'. The interviews did not significantly disrupt his attendance at school. As he recalled it he had interviews 'once every other day and a week off when Liz was on holiday'. The interviews ranged in his estimate from half an hour to three hours. The times in fact were eleven minutes to sixty-five minutes but PH expressed the length as he felt it.

11.67 PH was interviewed on ten occasions between 1st March and 24th March 1991, all interviews being carried out at Dalneigh by Mrs Liz MacLean and Constable Susan MacLaren. On 1st March PH appeared to the interviewers to be a talkative and lively child who seemed quite happy to come to see them. He remained settled during interviews, although he was clearly not happy at being away from home. This first interview took place after the medical examination. The interviewers explained to him why he was away from home and that they believed adults were hurting children. PH identified the male and female genital areas and appeared to the interviewers to know what they meant by being hurt. The interviewers used human figure drawings, drawn by Constable MacLaren at the time, to ask if PH knew of parts of the body and considered that the child understood this. PH would put a straight line to indicate the genital areas. PH was also asked to identify on a pre-drawn figure where a person might be hurt, and did so again by drawing a line. As was recorded in Constable MacLaren's notes PH was asked about a bad man who hurt little girls.

11.68 At PH's second interview on 3rd March, he was asked about his conversation with the interviewers on 1st March. Constable MacLaren drew a picture of people in fancy dress, initially under PH's direction. PH became distressed when, continuing the drawing, he asked Constable MacLaren to put a roof over people having a party. On 5th March PH introduced the subject of the Reverend Morris McKenzie and was allowed to talk about contact with this person. Two days later PH spoke of a fancy dress party which he had attended. On 12th March PH was invited to talk about the drawing made at the previous interview and talked about the fancy dress party. He asked when he would be going home and expressed concern about missing his grandparents. He also asked to see Mrs Norma Buchanan, who had been involved in the uplift on 27th February and became upset when the interviewers told him that that would not be possible. He was told that boys and girls had told Mrs MacLean that they had been hurt on their sexual parts and that PH had been present. On 14th March PH said that he did not know why he was in care, and this was discussed with him. He said again that he had attended a fancy dress party, indicating that he had been dressed up as a 'teenage mutant hero turtle'. He drew stick figures, with a line on them representing where a big person would hurt a little person. At the following interview on 17th March the interviewers again discussed why he was away from home, and PH talked about big people hurting little people, again drawing figures to show areas of the body where a girl could be hurt. He maintained that he did not know anything about being hurt and did not understand why he was away from home.

11.69 There was a short and informal session on 21st March during which PH was asked again about how he was feeling about being away from home. On this occasion PH threw beanbags at the interviewers, and left the interview to make toast in the kitchen. On 22nd March Constable MacLaren received a telephone call from Sergeant Hanson indicating that PH's foster carers had telephoned her, to say that PH had begun to talk about things that had happened at home. As a result PH was interviewed again that day, but the interviewers did not acquaint

themselves with the foster mother's account prior to the interview. PH drew a map for the interviewers but decided that he wanted to go to the kitchen, where he spoke about what he said a friend of his had seen. He spoke of a gathering of adults and children and of a girl being hurt by an adult, telling the interviewers the names of the adults and children present. Constable MacLaren made notes during the interview with PH's approval. PH also talked about Morris, saying that he took the belt to him when he did bad things. He went on to speak about having pretend blood put on him, being put in a wooden box, and carried to a hill. Later he told the interviewers about fighting involving the Vikings and the Americans. On 24th March PH asked for a piece of paper from the preceding interview to be fetched from the cupboard outside the interview room. PH asked if he could read out the names on the paper and did so, shouting them out loudly. He stated who was hurt the most and ticks were put on the lists to indicate this, PH expanding to a certain extent on his previous account. During this interview PH behaved aggressively and at times rudely towards the interviewers. He seemed caught up in the process of going over names with them.

11.70 PH remembered that there was a toy box which had dolls but he considered it to be 'all girls stuff in the box'. He recalled that Mrs MacLean had said 'we heard things about you from other children'. He said that he was asked about fancy dress and replied that he had once gone as a turtle to a carnival. He recalled that the interviewers 'would keep going on and on till I answered them'. He answered most of the questions with a 'don't know'. PH was of the opinion that he was being tape-recorded as he had noticed a ridge in the carpet going up to the toy box. No-one had told him that he was being recorded. PH was uncertain as to whether the interviewers had believed him or not, and cited the repeated questioning as evidence that they possibly did not.

11.71 TH was also interviewed at Dalneigh which was about twenty miles away from her placement. She was ferried at the start by Miss Janette Chisholm who found her very anxious and spent much of the journey telling her what would happen. She remained with TH and the child's anxieties gradually lessened. She was able to leave the interview room when she wished and move about the house.

11.72 TH was interviewed on eight occasions between 1st March and 20th March 1991. All the interviews were conducted by Mrs Liz MacLean and Constable Susan MacLaren. TH appeared to the interviewers to be willing to come to see them. In general she looked happy and relaxed, but at times fluctuated between being very talkative and on the other hand withdrawn, curling up and sucking her thumb. On 1st March TH was seen after having her medical examination which had also been held at Dalneigh. She was upset and withdrawn after the examination. When Mrs MacLean was introduced to her, TH was crying and said that she wanted to tell Constable MacLaren something. TH said that a bad man, whom she called the Prime Minister, had 'hurt her botty'. Mrs MacLean considered that the account which TH had given could not have been stimulated solely by the introduction, by the interviewers, of reference to a child being hurt. She thought TH had given significant detail. Similarly Constable MacLaren was clear that the term 'Prime Minister' had come originally from the child.

11.73 The interviewers recalled that at the next interview on 3rd March TH again spoke of someone 'hurting her in the botty'. Mrs MacLean was unclear, however, whether when the child said that she had been hurt, she was talking of abuse, or simply referring back to the medical examination which had taken place two days beforehand. Constable MacLaren indicated that TH told the interviewers about PH, her parents and herself going in a car to a field, where she saw a circle of little people with big people at the back; the Prime Minister was in the middle, and he pulled little girls into the ring and hurt their botty. The interviewers later guided her to the subject of church, asking her who the minister of the church was. TH said he was the Reverend Morris McKenzie and that she did not like him because he wore a long black dress and said bad things. She became distressed and confused, clinging to Constable MacLaren, and the interview was terminated.

11.74 The matter of church arose again at the next interview on 5th March when in response to TH indicating that she hated church, Constable MacLaren expressed

a liking for church and introduced into the interview the subject of her own minister's wife having a baby. When TH said that she hated her teacher Constable MacLaren suggested that this was not really so. At this interview TH showed no sign of upset. On 7th March TH was relaxed at the beginning of the interview. The interviewers referred to drawings made at previous interviews and drew the child's attention back to Morris. The interviewers' objective was to help TH to communicate more fully about matters she had already mentioned in relation to being hurt. As TH began to tell the interviewers about the circle and the Prime Minister, mentioning that this had happened in England, she became withdrawn and tearful. These lines of questioning were not pursued. On 12th March TH talked about another child whom she had already mentioned, saying that she had known the other girl while she was in England. She was upset at times during the interview. The interviewers talked about the circles which TH had previously drawn, TH saying that the other little girl had been pulled into the circle and that the Prime Minister hurt her. TH was excited at the next interviews on 14th and 17th March. On 20th March TH was referred back to a previous drawing and the interviewers pursued the matters of going to a circle where a girl could be hurt, and who might be present at that event.

11.75 After her first interview which was during her first weekend TH had settled well. After her interview on the 14th of March it was noted that she was giggling and had stopped sucking her thumb. At the interview on 17th March she was very excited and said that she was going to help Sue stop the bad people hurting the children. She idolised Constable MacLaren and was happy to see her. She enjoyed going to be interviewed and wanted to continue with the interviews. When the foster mother asked if she would like to go to Sunday School TH appeared horrified and emphatically refused. She did not want to talk about church so the foster mother said nothing more about it. She was asked at one interview to draw a picture of a circle and name the people. She told them four names including her parents. On that day Mrs Susan Millar was told in a telephone call from Mrs MacLean that TH was 'blossoming' and was no longer bedwetting. But the bedwetting problem had resolved a considerable time before although the pen portrait presented it as continuing.

11.76 TH claimed that she was interviewed every other day after she arrived at her foster placement, by Liz and a social worker. She stated to Dr Powell in what he termed an adult fashion that after the third interview 'I had five days peace'. Again in what seemed to Dr Powell a rather adult fashion, she described the interviews as question periods in which 'they wanted to get as much out of me as possible and kept at me'. She recalled that one of her interviews centred on discussion of a man, 'the vicar', who had supposedly hurt people. She had found Constable MacLaren 'alright'. TH thought that the police had listened to her but was of the opinion that social workers did not.

11.77 JM like the other children attended interviews with the RSSPCC at Inverness. He was taken there by his foster mother. He told her that the interviewers would get nothing out of him however hard they tried and indicated that he would not disclose secrets. He thought that the interviews were held every two days. They lasted into the third week and he was at school at the time of one of them. JM was in fact interviewed on five occasions between 28th February and 21st March 1991. The interviews were conducted by Mrs Liz MacLean and Constable MacLaren, with the exception of the interview on 5th March when Constable MacLaren was replaced by Constable Miller. All the interviews were carried out at Dalneigh. Throughout the interviews JM appeared to the interviewers to be hostile and defensive, making it very clear he did not like being away and saying that he was away from home because he had helped the W family. Mrs MacLean considered that JM was not happy to talk to the interviewers, and as they did not wish to put him in the position of forcing him to say things, his interviews were kept short and infrequent and he was seen less often than the other children.

11.78 Mrs MacLean recorded that at the interview with JM on 28th February the interviewers 'attempted to explain to JM the reason for him being away from home. He seemed angry, throwing toys around the room.' However, part of this interview was conducted by Constable MacLaren on her own. Her notes recorded:

'1700 interview with JM and conducted in presence of Liz MacLean. J was very angry about certain things. (He eventually admitted that the person in the middle of the dance was the Prime Minister. The dance had a nasty part to it.) To pertinent questions J answered 'don't know'. He threw toys and was very agitated. Interview terminated 1900'. Constable MacLaren indicated in evidence that the bracketed part of the entry in her notebook record of the interview did not relate to the interview with JM, but in fact to an interview with TH on 1st March 1991. The brackets had been added some considerable time later as police officers were not permitted to cross things out in their notebooks. She had written up her first contact with JM after the interview with TH on 1st March. Constable MacLaren recalled that Mrs Liz MacLean was not present for the entire interview, which in Constable MacLaren's recollection lasted for only some three-quarters of an hour. Despite the concluding time given in Constable MacLaren's notebook she thought the interview had been finished well before 1900. Her memorandum to D.I. Heddle, sent on 4th March, contained what she confirmed in evidence was a full account of her interview with JM. This memorandum indicated 'About 1700 on 28.2.91 I interviewed JM in the presence of the social worker Mrs Liz MacLean. Throughout the interview JM was agitated and very angry. It was clear that he had knowledge of activities but was unable to disclose.' Mrs MacLean had not seen this document before the Inquiry and was not aware that Constable MacLaren had reported in these terms to her superior officers. As Mrs MacLean indicated in evidence she was not present for any discussion with JM involving a dance or the Prime Minister, but relied on Constable MacLaren's records and conveyed the substance of what Constable MacLaren had told her to Orkney. In Mrs Susan Millar's notes there was recorded a telephone call from Mrs MacLean to Mrs Millar indicating 'JM talking about the Prime Minister, a circle, nasty means "sexy"'. Mrs MacLean did not recall whether she had discussed with Mrs Millar the form in which any confirmatory written record about the interview with JM would be passed to her, and her own note made no reference to the part of the interview which had been conducted only by Constable MacLaren.

11.79 At the start of the interview with JM on 5th March, the interviewers indicated their belief that something had happened, but no information was forthcoming from JM. Constable Miller thought that her statement to JM which was 'we believe that somebody has been doing bad things to you' had been agreed in advance with Mrs MacLean. Constable Miller did not think that that statement of the belief which the interviewers held might be indicating to the child that her mind was closed. JM was more relaxed on 7th March and spoke of attending LW's birthday party attended by the T children, the B children, the younger W children, and the Reverend Morris McKenzie. The interviewers asked him about Lakey, introducing the name themselves. Constable MacLaren recalled that JM became angry and agitated when the interviewers asked further questions about the party. Constable MacLaren made drawings including a stick figure at this interview. On 12th March JM spoke about his home and family, telling the interviewers angrily that he felt he had been taken from home by social workers because his family wanted the W children brought home. More neutral topics comprised the interview of 21st March.

11.80 In fact JM understood that the interviews were called 'counselling'. In the beginning he did not appear to understand what the interviews were about but claimed that at one point possibly during his third week, his co-ordinator, Mr Paul Hersee, explained 'they suspected sexual abuse like either having been involved in or witnessing sexual intercourse'. After the occasion of the final interview he said that he thought that there were tape-recorders hidden among the toys and for a short time he was upset.

11.81 SM was interviewed on seven occasions between 2nd March and 24th March 1991. During the first three interviews, the interviewers were Mr Leslie Hood and Constable Miller. The fourth, fifth and sixth interviews were conducted by Mr Leslie Hood and Constable Ross. The final interview was conducted by D.I. Heddle and D.S. Gray. All interviews took place at Strathaven. SM was driven there by Mr Roy, Mr Mair or another member of the staff. The interviewers' impression of SM was that he was generally controlled and guarded. Mr Leslie

Hood considered SM to be very suspicious of any interpretation that might be placed on his comments, and noted that SM felt that he was being persecuted and was annoyed that the interviewers could not understand this. SM maintained his position throughout the interviews that there was no reason for the removal. SM's view as expressed to Dr Powell was that the interviews 'made a change from the school'. He recalled that sexual abuse was explained to him by the use of sketches of stick people. He accused the interviewers on one occasion of mentally abusing him and felt angry when they told him that they did not believe his denials.

11.82 On 2nd March Mr Hood informed SM that the interviewers believed that he may have been hurt or abused by others, or he may have seen abuse happening to others. SM was told that sexual abuse was involved. He denied that that had happened, and indicated that local people, which the interviewers took to mean Orcadians, would have made this up. SM told the interviewers that the families whose children had been taken away were fighting for the W family and went on to say that the allegations had been made up by the W children. The interviewers had not mentioned at that stage what the source of the allegations was. SM indicated that he understood why he had been removed and that it was part of a vendetta by the Social Work Department in return for his own family's support of the W family. He said that it was unjustified to take the children into care as nothing had happened to them. At this interview he also talked of his life in Orkney, and his family, and mentioned that he was concerned about his schoolwork and about having books sent to him.

11.83 On 4th March SM again expressed anger about his removal from home, telling the interviewers that he had contemplated running away. He said that he was angry at all the people involved in taking him away and compared this to what he termed anti-English racism. SM told the interviewers that he wanted some personal possessions, and they advised him that they would see what could be done about the matter. He asked about Children's Hearings, and whether he would be represented at them. At the interview on 6th March Constable Miller said to SM that she hoped that he would be able to tell someone if, as the interviewers believed, he had been sexually abused or hurt. SM appeared dismissive of this, and went on to say that the W daughter was an unreliable witness who told stories. At this interview he again spoke about his family, and seemed to the interviewers to be more relaxed. Constable Miller indicated that she would not be attending any further interviews and introduced SM to Constable Ross.

11.84 On 8th March there was further discussion about his house in Orkney, and his previous home in England. SM spoke again of his family and of his future plans. He indicated that he liked Geilsland School and was happy there, and did not wish to move to another home. He repeated on 14th March that the allegations had been made up. He appeared to indicate that OW was responsible for them. On 20th March SM told the interviewers that his parents, together with Mrs W, the Reverend and Mrs McKenzie, and Mr and Mrs T, had had meetings to discuss the situation of the W family and had campaigned against the W children being taken into care. SM told the interviewers that he himself had not taken any part in this campaign, repeating that the reason for the allegations involving him lay in his family's involvement in it. SM indicated that he considered that 'high up' people in the Social Work Department in Orkney were crooked, the police were 'tagging along' with this, and that the Reporter was also crooked.

11.85 The suggestion was made during the Inquiry that on one occasion SM was taken to Strathaven by two policemen before breakfast and returned to Geilsland School without lunch and not having eaten for seventeen hours. Mr Mair could not trace that occasion from his records and on the basis of the records believed that no such incident could have happened. However further research during the course of his evidence did throw up one visit not recorded in the records on which he had earlier relied and it later appeared that the suggestion was to an extent well founded. As the school records showed there was an occasion on 24th March when SM was taken to Strathaven at short notice. SM had been told to get up quickly, had been taken to Strathaven by a member of staff and had an interview with two police officers at Strathaven. He did not have breakfast before he left and was only fed after he returned. This occurred on the occasion when

D.I. Heddle and D.S. Gray drove down to Strathaven to interview him. At Strathaven he was offered food by Miss Stevenson but declined anything to eat or drink.

11.86 D.I. Heddle and D.S. Gray travelled south on 24th March to Strathaven to interview SM because they thought it might be appropriate for SM to be seen by male officers but they were anxious not to give the impression that their visit was an attempt to obtain evidence. Mr Lee did not know that the police had held this interview. It was thought that SM might have been inhibited by being interviewed by a woman or even by two women, as it was not appreciated by those of the senior police who had not met him that Mr Leslie Hood was a man. Miss Lindsey Stevenson was present throughout their visit but made no specific contribution. The interview was not recorded because D.I. Heddle thought it was difficult to do that without SM knowing and they did not consider it to be necessary. The interview lasted one and a half hours and the police officers left on good terms with SM. They found him intelligent and articulate but guarded throughout. The purpose of their visit was to establish the truth. SM emphatically denied all suggestions that he was a victim of or party to child abuse. He was defensive of his family and stated that he believed that he and his brother had been taken into care and his parents detained because of the overt support which they had given to the W family. SM was however left with some bitterness after this interview. He felt threatened and frightened and lost some of the respect which he previously had for the police force.

11.87 SM would get agitated before the interview sessions. His anger at being in care became focused on these occasions. He was annoyed and confused after each of the first two interviews. On 6th March he was taken by Mr Mair who noted that he was tense on the way but talked about music on the way back which helped him to relax. Mr Mair saw his tension as a normal reaction. SM told him that the interviewers would ask him about films and music and were trying to trip him up. He thought that they were asking him loaded questions. Mr Mair would discuss the interviews lightheartedly on the way back. SM resented having to go and saw it as a waste of time. Mr Mair tried to reassure him and calm him. SM found the occasions stressful but as time went on he began to see the visits as a matter of routine and his feeling that it was a waste of time began to predominate. When he saw Mrs Susan Brown on 12th March he was fed up with going to Strathaven and said that there was little point in his going as he had nothing to say but he still had to keep going there.

11.88 BT was interviewed on five occasions between 1st March and 21st March 1991. The interviews were conducted by Mrs Liz MacLean and Constable Linda Williamson at Dalneigh. In general, BT did not want to come to interview and his visits were short. He did not play much during the interviewers' contact with him and did not seem to like coming to interview. He was prepared but not happy to go for interview and never refused. When his foster carers took him he would be silent all the way there but was perfectly happy and seemed relieved when they brought him away. On two occasions Mr Hersee took him and he was happy to go. Mr Hersee believed that BT was aware that he had a choice whether to go or not. On one occasion the foster carers' own child accompanied them. The interviewers felt that BT was frightened but he would not allow them to pursue anything. Although he was sometimes cheerful and speaking to them, he often seemed hesitant and very distressed. It was clear to Mrs MacLean that he wanted to go home to Orkney.

11.89 BT's first interview was on 1st March directly after his medical examination. Constable Williamson recalled that on 3rd March BT said that there was nothing wrong at home, that his mum had never hurt him, and that nothing had happened to him. The interviewers said that other children had indicated that some things had been happening and that he had perhaps been there. BT indicated that he had been taken away because he was a supporter of the W family, although the interviewers had not told him that it was the W children who had spoken of people being hurt. The interview was short; the interviewers told BT that he did not need to come to see them, but that they would like him to come and to tell them if he did not wish to speak to them, rather than not come at all. Similarly

the interview on 5th March was very brief, BT remaining for a short time then asking to go. On 7th March BT said that he did not like coming to see the interviewers. He was told that they would not force him to speak to them but that they would like to see him weekly. There was then a gap in interviews until 21st March partly because Constable Williamson was fog-bound in Kirkwall for a week. Mrs MacLean recalled that BT knew there was a weekly appointment available for him if he wished to come to interview.

11.90 The interviews occurred as BT recalled it every two or three weeks for about forty-five minutes. He did not think that they were being recorded. He recalled that the interviewers tried to convince him that something had happened. He told his foster carers he did not like the social service lady who apparently whispered with Constable Williamson. He felt that she was trying to make him say things he did not want to say and he thought that the interviewers did not believe what he said.

11.91 MT was interviewed on seven occasions between 28th February and 20th March 1991. All interviews were carried out at Dalneigh by Mrs Liz MacLean and Constable Williamson. The interviewers found MT to be an articulate and able child who rarely showed visible signs of emotion. She appeared very grown up. She was very keen to come to interview and always asked the interviewers if she could come back soon. On 28th February MT and the interviewers played for a short time and at this introductory contact she seemed to settle quite quickly. The main purpose of meeting with MT on this occasion was to allow her to see where she would be going for her medical examination.

11.92 On 3rd March the interviewers explained to MT why she was away from home saying that children had spoken to them about adults going to some place with children and hurting them. MT denied that she had been hurt. She added that she had gone to the 'meadows' with adults. MT also related going to a wedding where there had been gas lanterns on a pole over a circle of people. She was asked if there would be anyone in the circle and she said 'maybe the groom or the minister'. The interviewers asked what the minister might wear and she described 'trousers, black shoes, black waistcoat and white shirt'. When the interviewers questioned the cold in Orkney and asked if he would have a jacket on, she said that he might also wear his long black cloak which was very warm and heavy and had a silver buckle at the throat. When the interviewers asked MT if anything else might happen, she said that the man would dance up to a little girl and take her into the middle and might hurt her. She then said 'he might have his walking stick hidden under his cloak and he could hook the little girl'. MT then spent time drawing what could be described as walking sticks and seemed to the interviewers to be thinking very closely about this. When she was asked more about the man in the middle, she said that he was not a good man but that people would have to like him, and she wrote that his name was Morris. When she told the interviewers this she did not say the name out loud, but wrote it on the wallpaper which the interviewers were using to write and draw on. Drawings from this interview were not retained. MT became upset towards the end of the interview.

11.93 When MT was interviewed on 5th March she began by drawing a wolf and a hound on wallpaper. The interviewers drew her attention back to what she had been telling them at the previous interview about the circle and she drew this for them again, also drawing the man in the middle wearing a cloak and a light shining over the circle. At one stage she talked about the man's cloak having a button with a silver lion's head on it. MT also drew a stick and said that the man pulled children from the ring and danced with them. She said that the stick might be an umbrella. The interviewers asked MT what the little girl who was pulled in might be feeling like and MT said that the girl would be feeling very sad and hurt. She also said that the little girl would say 'stop doing that to me'. As MT related this Constable Williamson wrote it down on the wallpaper, although drawings were made by MT herself. MT also wrote names to describe the man in the middle of the circle and wrote these down herself. She gave the man the name of 'Joe'. The interviewers asked what should happen to the man who hurt the little girl and MT said that he should be put in jail for five years.

11.94 At the interview on 7th March the interviewers returned to the matters which MT had discussed at the two previous interviews. MT did not want to draw, but said the man hurt people in the wrong places. Constable Williamson drew a figure for her to indicate where the wrong places were. MT said that they would be hit on the face and put a mark to show that. She then pointed to the private parts and Constable Williamson put a cross there. MT also said that they might be hurt on the tummy and put a cross there on the figure also. Constable Williamson asked MT what the hurt would feel like and MT said that it would be very sore and uncomfortable and that the girl would cry, feel sad and would want to run out of the circle. Constable Williamson wrote this down beside the figure which had been drawn and asked MT what the man was called. MT replied 'Joe', and wrote this down and then made a drawing of that person in black. MT talked about the stick possibly being over his arm but under his cloak. She went on to indicate that his wife had not been present. She said that the man could be a minister in the church and would preach at Sunday school. She told the interviewers names of other children at Sunday school. Again these were written down on the wallpaper by Constable Williamson. MT finally said that MW had maybe seen it all happen and gone and told someone, but as they had not listened it had not been stopped yet. MT said that the minister was in place of Morris who had been away because of illness.

11.95 On 13th March Constable Williamson drew a figure to MT's direction, adding detail to it including a lion-headed button. MT said the figure was bald. Constable Williamson then drew, again to MT's direction, a little girl to the right of the figure, following which MT herself drew a stick-like object joining the larger figure and the little girl. Other children's names which were mentioned during the interview were not explored. At a further interview the next day, 14th March, MT appeared to the interviewers to lack concentration. They recognised that she had been to interview on successive days. MT drew a circle with a man in the middle, drew the heads of the people around the circle, and put a lion button and a hat on the man. She then stabbed the man with a red pen as if she were killing him. On 20th March MT talked again about killing the minister, about bad things, and about little girls crying. She again mentioned the lion's head button. She talked about the minister being in place of Morris at the Hope.

11.96 MT was taken on two occasions to her interviews by Mr Goodfellow and on these occasions behaved very well, showed no reluctance and was not distressed before or after the interview. Mr Hersee took her on 5th March and found her chatty and interested beforehand and still chirpy afterwards. He saw her as happy and free from strain. That was the regular pattern over all the subsequent visits on 7th, 14th, 18th, 20th, 28th March and 2nd April. Miss Janette Chisholm took MT to interview on two occasions. She found her a very self-controlled child, a careful little girl who was determined to remain in control. She had no adverse reaction to the interviews. MT often brought a book with her on the occasion of the interviews and spent some time on the journey reading. The interviews seemed to MT to be occasions when she was questioned rather than informed of what was happening. She thought that they occurred two or three times per week. As to their content, MT could not remember but was able to describe the room in which the interviews took place. She claimed that the interviews usually took place before lunch or tea and that 'if I said something they would say draw it'.

(B) **METHODOLOGY** **11.97** The general approach of the RSSPCC to interviewing was to take matters at a child's own pace, the underlying basic principle being that children were helpless and not responsible for what had happened to them. Mr McTaggart considered that to proceed in this way empowered children to take up responsibility for themselves again, whereas a directive role in interviewing tended to remove that responsibility. The starting point of interviewing was the knowledge that there may be something troubling the child.

11.98 Mrs MacLean's approach to interviewing was that the children were offered a relationship of which communication was the central feature. The dialogue included an exchange of information and anything which the child communicated was considered by the RSSPCC management and by those with

overall care management responsibility. Mrs MacLean considered that the first stage of interviewing was to allow the interviews to proceed with a constant review of the process by the case manager and interviewer. The second stage was one in which a neutral environment was offered, with a range of media through which the child could communicate and with progress being determined by the child. Further assessment focusing on communication would take place after the child had settled. This assessment would include examination of whether the child had built up a relationship of trust, was feeling safe, had been provided with and was making use of media to communicate, and whether indeed the child was communicating. She designated no interview as investigative. She did not like the terms 'therapeutic' and 'disclosure' and preferred the term 'assessment and support'. She was not concerned to assess the physical, emotional, psychological or social development of a child, nor, so far as she was aware, was that done by any other interviewer from the RSSPCC.

11.99 Miss Stevenson did not recognise a distinct category of interviews designated as supportive. Establishing a relationship with a child was essentially to help a child to communicate and in that process support could be provided. In her attempt to build a relationship with a child her aim was to help the child express anything the child might wish. No assessment of a child could be properly carried out until a proper relationship with the child had been established and the child was communicating freely. Miss Stevenson saw assessment as examining whether children had settled, were trusting and were communicating and also what they were communicating as well as any concerns about that communication. Support was viewed by Miss Stevenson as being concerned with reassuring children and making them feel comfortable. Therapeutic interviews could only be considered once an assessment had been carried out. Mr Hood saw his interviewing technique as intended to enable the child to be comfortable in the interview but he did not see himself undertaking disclosure work.

11.100 Mrs MacLean, Miss Stevenson and Mr Hood all saw it as necessary for interviewers to have an open mind regarding allegations of sexual abuse. Prior to interviews being undertaken with the nine children Mrs MacLean discussed with Mr McTaggart but not Orkney Islands Council Social Work Department the advantages and disadvantages of using interviewers who had had previous involvement with the W children. Because of the complex background of the W children, the oddities of the correspondence and the practical problems of the task to be undertaken, it was seen as helpful for interviewers who had had previous involvement to be involved with the interviewing of the nine children for at least the first month. Mrs MacLean considered that in an ideal world, with no shortage of suitable interviewers, it would have been preferable for interviewers not to have had earlier involvement. But she felt that her extensive background knowledge and continuing contact with some of the W children in therapeutic work did not affect her ability to retain an open mind. She did not accept that she believed the allegations of the W children, nor that in interviewing the nine she was looking for confirmation of the disclosures of the W children. Knowing an allegation about a particular child whom she then proceeded to interview did not affect the way in which she conducted the interview. Mrs MacLean refuted any suggestion that her lack of exploration of further names of children raised by MT on 13th March indicated a closed mind. Mrs MacLean found acceptable a note by Constable Williamson which referred to BT and which said 'I think and hope we may get some information from him (BT) soon, although I do not think it will be much.' This was a perspective she saw as built into all the discussions she had with Constable Williamson.

11.101 Before the start of interviews with the children from the four families Miss Stevenson believed the accounts of the W children, noting Mrs MacLean's views and also the consistency she herself saw as present in the children's accounts. But Miss Stevenson also saw the need to approach the task of interviewing without preconceived ideas. She believed that the child must be given time, permission and reassurance to talk about any abuse. Miss Stevenson was aware that what a child said might confirm or contradict suspicions about abuse but that should not override the work with the child. Matters raised by the child in interviews must

be explored. Mr Hood considered that he approached interviews with SM with an open mind as to whether SM had been involved as a participant in, or as an observer of abuse but accepted in evidence that he believed it was very possible that SM might have been abused and that SM was denying this.

11.102 As regards what she should say to a child when the child first came for interview Mrs MacLean received no direction, but her general approach was intended to convey to the child an explanation of why he or she was being seen. She would introduce herself when she first met the child and say that she worked with children who might be upset, or who might have things they needed to talk about. In the matter of whether or not it was desirable for her to explain to a child at the beginning of a series of interviews her fear that he or she had been hurt, she considered that the child had a right to an explanation of why he or she was away from home and why he or she was coming to see the interviewers. In the case of the children of the four families, she considered it appropriate to elaborate on the interviewers' apprehension that children had been hurt by talking of children going somewhere with adults. In Mrs MacLean's view the interviewers wished to be as honest as possible with the children. Thus the starting point adopted by all the interviewers in the exploration of reasons for the child being away from home was to say to the child that other children with whom the interviewers had spoken had suggested that adults and children went out together and that the adults hurt the children. This approach, although taken in the light of Mrs MacLean's own judgement, was agreed between the police interviewers, Miss Stevenson and Mrs MacLean. The extent to which it was desirable to give the children information about what had led the interviewers to see them was not discussed with Orkney Social Work Department.

11.103 The police officers involved in interviewing the nine children were aware that the RSSPCC's techniques were to be used. Constable Williamson first heard from Mrs Liz MacLean about her method of interviewing at the meeting about the W children held at the RSSPCC's Glasgow premises on 20th November 1990. She was aware from that stage that interviews would be taken at the child's pace. When she and her co-interviewer started an interview with one of the nine children they simply began to go over any drawings already made, so that they had a starting point each day with the child. She did not think that there was any more discussion of the matters which the next interview was going to include. All the police officers taking part in the interviewing considered that they had maintained an open mind although Constable Williamson agreed in evidence that she was regarding MT as an abused child as at 27th February. Constable MacLaren considered that the interviews were conducted in a relaxed atmosphere, such that a child was able to explore the surroundings at Dalneigh. She was aware that Mrs MacLean had indicated that she believed what the W children had said. But Constable MacLaren felt she herself had to speak to the H children before she could form an opinion. She considered that all the interviews were treated in the same way, with none of them being specifically designated as investigative.

11.104 Constable Ross had no experience of such methods as the RSSPCC used. She was accustomed to working with a social worker, when seeing a child in relation to allegations of abuse, but was more accustomed to cases where a child herself had made an allegation and was therefore ready to speak to interviewers about it. She had spoken with brothers and sisters of children who had made such allegations, and found them generally ready to discuss allegations which had been made. She recognised that on this occasion the B children whom she was to interview had made no such allegations. Constable Ross did not discuss the respective roles of the interviewers before interviewing. She recognised that in her approach she might have indicated to the child her own belief in the truth of the W children's allegations. Constable Miller regarded the possibility of a child's denial of allegations as significant, but if she was aware of an allegation and there was some credence to it, she would in general interview again despite an earlier denial. Because a denial had been made, this did not mean that nothing had happened. She did not discuss interview technique with Mrs MacLean before she saw JM.

11.105 Other persons involved in the situation, not directly concerned with interviewing themselves, formed general views about the conduct of the interviews. Thus, Miss Janette Chisholm was impressed by Mrs MacLean and felt able to acquaint herself very quickly with the techniques which Mrs MacLean used. Miss Chisholm considered that Mrs MacLean provided a safe atmosphere in interviews, was very patient with children, and was prepared to be tested out by them. She considered that Mrs MacLean never removed the focus of an interview from the source of feelings the child was expressing. Miss Chisholm considered that it was not Mrs MacLean's primary concern to obtain evidence. She noted that Mrs MacLean did not herself decide precisely what she was going to do with the child; as Miss Chisholm saw it, Mrs MacLean 'picked up the child and worked with what was there'. Mrs Susan Brown noted a number of features of Mrs MacLean's methods. These included the importance of understanding, sympathy and empathy with the child; making sure a child felt he or she was in a safe environment with trustworthy people; absolute honesty; in no way pushing the child or forcing a child or asking leading questions; and leaving a child free to express ideas. Mrs Brown thought the tone of interviews was gentle and relaxed, and that questioning was not generally part of the interviewing technique, there being generally an encouragement only of a child to talk.

11.106 Mr Sam McTaggart thought that because of evidential considerations, it was generally recognised that there was less validity if answers from a child were obtained by direction or by leading questions. Mrs Liz MacLean considered that it was appropriate to use leading questions to some extent, and to provide children with 'pegs to hang things on'. Leading a child back to what he or she might have said previously would not in her view necessarily be destructive to the value of an interview. She considered it quite appropriate to direct an interview to matters which the interviewers wished to concentrate on, if a child was dwelling on irrelevant matters. Moreover, if she considered it appropriate to mention a name, or put a situation to a child, she would do so if a child had already communicated about it and the interviewers knew the circumstances. Mrs MacLean's practice was that if a child had used something at a previous interview, she would have that available at the next interview. Thus she might take out drawings done on previous occasions. Mrs MacLean was aware of the potential criticism of reinforcement of a child's communications, but considered that a child might have a need to think further about what had happened. She accepted the view that there was a difference between acknowledging what had gone before, and going over it in a reinforcing way.

11.107 Mrs MacLean indicated in evidence that if a child communicated something which the interviewers thought was linked to the investigation taking place, the interviewers would return to the matter if a child allowed that. Some children, however, moved away from what Mrs MacLean termed the 'point of hurt'. The way in which a child looked at an interviewer, or communicated feelings to the interviewer, might indicate to an interviewer how to proceed. It might also happen that an interviewer could sensitively take a child back to a previous communication. A child could also be taken back by reference to a drawing. But these ways of returning to previous material would only happen when a child was ready so to return. If correspondence put to the W children had been met by a neutral reaction, that, as Mrs MacLean considered, would have been the end of the matter. In fact, it was an apparently odd reaction to the correspondence which raised the interviewers' concern. Mrs MacLean took the view that there was a rationale for keeping facing a child with what the interviewers considered might have happened to her. Thus in the case of interviews with MT, the return by the interviewers to circumstances of possible abuse, bit by bit, might enable the child to release feelings and as Mrs MacLean put it, move on. She did not feel that MT was pressurised. If the child had expressed irritation that would have been taken into consideration when planning future contact with her. Mrs MacLean's general view was that a child would only communicate if he or she wished to do so and pressure on a child was likely to be counter-productive.

11.108 The use of leading or directive questions and facilitation as particular techniques was considered by Miss Lindsey Stevenson in relation to putting the

Table 2 Workloads March 1991 at Strathaven

<i>March</i>	<i>2</i>	<i>4</i>	<i>6</i>	<i>8</i>	<i>11</i>	<i>13</i>	<i>14</i>	<i>15</i>	<i>18</i>	<i>20</i>	<i>22</i>
Lindsey Stevenson	3	3	3	3	3	2	—	2	3	3	2
PC Ross	3	3	3	4	3	2	1	2	3	4	2
PC Miller	1	1	1	—	—	—	—	—	—	—	—
Leslie Hood	1	1	1	1	—	—	1	—	—	1	—

11.114 Mrs MacLean, Constable Williamson, Constable MacLaren, Miss Lindsey Stevenson and Constable Ross carried a considerable load of interviews from 1st March until 24th March when the interviews ceased. Interviews were carried out during the first weekend that the children were in care but thereafter only two children were seen over a weekend. The pace of the interviews was particularly relentless for the interviewers in the period 1st to 14th March with some interviewers undertaking four, five or even six interviews per day. Interviews were generally held on alternate days but the timing of the interviews throughout those days was varied, appointments sometimes being scheduled with only one and a half or indeed one and a quarter hours between two children while others were spaced at intervals of two or three hours apart. Given that the interviewers had allocated one hour to each child the time left between interviews or before interviews was in several cases extremely limited. For Mrs MacLean the 5th, 7th, and 14th March were particularly heavy days with six, five and five interviews taking place on those days respectively. After 14th March the pacing reduced slightly although on 20th March four children were seen, including two interviews with children from the W family, which Mrs MacLean described as therapeutic contacts and not investigative interviewing. Constable MacLaren had two days in which three interviews were undertaken and Constable Williamson had three days where three interviews were undertaken. Constable Ross and Miss Stevenson had six days when they undertook three interviews each and little time was allowed between them for reflection or recording. Constable Miller and Mr Leslie Hood were not required to undertake more than one interview per day.

11.115 As Dr Trowell stressed, investigative interviewing is not comparable with general child care work. It requires specialist skills and considerable thought, preparation, concentration and objectivity. There was not sufficient time allowed for all the different aspects of undertaking this stressful work with interviewers occasionally undertaking up to six interviews a day but regularly three. This left insufficient time for supervision of and case planning by the interviewers. For example there was no significant space left between the interviewing of WB and EB when they arrived at Strathaven together, had successive interviews and then left together.

11.116 The numbers of interviews each child attended was as detailed in the table opposite. It should be noted that the interview with SM on 24th March was conducted by two police officers.

11.117 There was no recorded decision as to how many interviews were to be held, nor any record of the situation being kept under constant review. The interviews continued for, in some cases, up to ten sessions, with the major focus on establishing relationships with the children. There was no clear management plan drawn up by anyone of the number of interviews to be held with each child, other than a mention in a handwritten note by Sergeant Hanson of the frequency of the interviews for the period 1st to 5th March. The frequency was noted as every second day including the Saturday and Sunday thereafter to suit the policewoman involved. This note was written after the briefing on 26th February 1991. There was no record of any review of the frequency of interviews with the nine children between interviews and managers.

11.118 There was no evidence that the pacing of interviews was deliberately related in a planned manner to the anticipated Section 42 hearing. On two occasions children were seen on two consecutive days - MT on 13th and 14th March and PH on 21st and 22nd March. EB underwent ten interviews in three weeks, four of them in the first week, and three in each of the subsequent two weeks. SB was also interviewed very frequently, having ten interviews spaced in a similar manner to those of EB. WB experienced pressure during the first week of interviewing

	<i>EB</i>	<i>WB</i>	<i>SB</i>	<i>PH</i>	<i>TH</i>	<i>JM</i>	<i>SM</i>	<i>BT</i>	<i>MT</i>
Feb. 28th						x			x
March									
1				x	x			x	
2	x	x	x				x		
3				x	x			x	x
4	x	x	x				x		
5				x	x	x		x	x
6	x	x	x				x		
7				x	x	x		x	x
8	x	x	x				x		
9									
10									
11	x	x	x						
12				x	x	x			
13	x		x						x
14				x	x		x		x
15	x		x						
16									
17				x	x				
18	x	x	x						
19									
20	x	x	x		x		x		x
21				x		x		x	
22	x		x	x					
23									
24				x			x		
TOTAL	10	7	10	10	8	5	7	5	7

given her strong denials and that she was shown drawings done by the interviewer. PH also underwent ten interviews, four interviews in the first week, two in the second week, and four in the third week. His schedule of interviews was also irregular in that he was interviewed at different times of the day as were MT and TH, although Mrs Liz MacLean considered that it was not absolutely necessary for a child always to be seen at the same time of day. The frequency of interviews of TH also put considerable pressure on her. A better and more appropriate frequency and spacing was achieved with JM, although in the case of his brother SM the frequency of interviews on alternate days over the first four interviews did introduce some pressure. There was some pressure of interviews on BT, who was interviewed four times in the first week, but thereafter there was a considerable gap until 21st March. The interviewers indicated to BT on 7th March that they wished to see him weekly, although BT had said he did not like going to interview. However as the frequency of interviews then became less intensive, BT's wish not to attend was to some extent respected. The frequency of interviews of MT was intermittent.

11.119 The duration of individual interviews with the nine children varied greatly. A child's capacity for interview was taken into account by the interviewers in deciding the duration. The periods extended from about eleven minutes at the one extreme to about sixty-five at the other. The exact duration of some interviews was hard to identify but there was no evidence of unduly protracted interviews.

(D) CONSENTS TO INTERVIEWS **11.120** There were no recorded formal consents from Orkney Islands Council for the children to be interviewed nor for audio or video recordings to be made, but the Council obviously agreed to the interviews being held and must be taken to have agreed to recordings being made as they anticipated that video or audio recordings would be made. They presumably also should be taken to have anticipated and agreed that the recordings would be used in later court proceedings. There was no consent sought or given from the parents for the children to be interviewed nor for audio or video recordings to be made or used. It was RSSPCC policy to obtain a child's consent where a video recording was to be made but the necessity for consent either as matter of law or of practice was unclear.

11.121 So far as the children in Highland were concerned Mrs MacLean saw the question of consent of the child to be interviewed as being contained within the child's choice about whether or not to return to the interview setting. She felt

that the consent of the child was not an absolute requirement before starting interviewing but saw the child's very presence as signifying consent. Sometimes a child would be asked whether he or she wanted to come back and a child's wishes were respected. Similarly Constable MacLaren took the child's consent as being contained within any agreement at the end of an interview to return. She did not confirm this again later with the child.

11.122 In Strathclyde a more specific effort to obtain agreement in advance was made. Miss Lindsey Stevenson checked with the B children that they were willing to come to Strathaven when she visited them in their foster homes on the 28th of February. She did not ask whether SB wanted to come and the foster mother felt that she could not give him a choice but had to do what was expected from her and take him. There were occasions when SB did not want to go and said that he did not want to go. The foster mother had not been instructed what she should do if he did not want to go so she would sit and listen to him and assure him that he had to go. On one occasion he said in front of Miss Lindsey Stevenson and Constable Pamela Ross that he did not want to come back to Strathaven. They were laughing with him at the time and offered him a glass of orange juice. So far as their foster mother was concerned neither WB nor EB were given a free choice whether they should go to be interviewed or not.

11.123 So far as SM was concerned Miss Stevenson and Mr Hood discussed with him at Geilsland School on 28th February whether he would be prepared to come to Strathaven for interviews. Further Mr Hood sought to check with him at the end of an interview whether he was willing to return. SM did not refuse to go but Mr Mair found it difficult to say whether SM had a free choice to go to Strathaven. He considered that SM felt that it was in his interests to comply with the request. The extent of the obligation to take him never had to be tested. SM would be told that there was going to be another session and that the RSSPCC wished to see him. His attitude was one of resignation. He said it was a waste of time and felt that it fulfilled no purpose. As Mrs Brown saw it, it was his reluctant decision to go; he felt obliged to go lest it went against him. On 24th March Miss Stevenson asked whether he minded speaking to the police and understood him to agree.

11.124 Apart from consent to being interviewed a distinct consideration arises regarding consent to having the interview recorded for use by others. Mrs MacLean's preference was to have the child's agreement to any form of recording but felt that the high suspicion and fear of the W children during interviews prevented this being done so far as they were concerned. Any attempt to seek their consent would, she felt, have led to an increase in their fears and a reduction in their ability to communicate during interviews. In relation to the children from the four families no consents for audio or video recording were sought from them. Mrs MacLean did not tell the children that the interviews might be used for Court proceedings as that would have stood in the way of her work. The interviewers believed that consent for audiotaping was a matter for the Orkney Islands Council. Videotaping was never considered for the nine children. However when the topic of audiotaping of interviews was raised by SM, Leslie Hood assured him that his consent would be sought if taping was to be attempted.

XII THE END OF THE STORY

I. The Return of the Children

- (A) THE SHERIFF COURT PROCEEDINGS
- 12.1** On 3rd April the hearing took place before the Sheriff on the matter of the grounds for referral. Some of the parties including Mr M raised the question of competency but the desirability of pursuing that course was not universally adopted. Mrs H and Mrs T wished the proof to proceed as quickly as possible and were reluctant to have the question argued lest it would lead to delay while the whole proceedings started all over again, although it was thought possible that the Acting Reporter might just abandon the whole process.
- 12.2** On the morning of 4th April Sheriff Kelbie gave his decision, holding the proceedings to be incompetent but going on to indicate that in his view the nine children ought to be returned to their parents. His Note and the Opinion of the Court in the subsequent appeal to the Court of Session reversing his decision are printed in 1991 Scots Law Times 530.
- 12.3** The curators had attended at the Sheriff Court but after hearing the result decided that they would leave the Islands. They had already packed in readiness to move to Inverness where the proof was to have been held, but after hearing what the Sheriff had said they took the view that the matter was concluded and that their work as curators had come to an end. However they took part in the subsequent appeal to the Court of Session.
- 12.4** Mr Sloan was not in Court when Sheriff Kelbie announced his decision to dismiss the application but was elsewhere in the building. He heard the decision from one of the curators. In his view, it meant that there was no longer any warrant in existence to entitle retention of the children and that they had to be returned. The matter was not one which allowed for choice. Sheriff Kelbie had in fact dismissed the application and had referred in his Note to the possibility of the Acting Reporter taking the case further but Mr Sloan was unaware of that at the time and believed that the warrant had fallen, although the consequences of a decision under Section 42 (5) of the 1968 Act might, he thought, be more explicit on the point. Even if it had been possible to persuade a Justice of the Peace to grant further Place of Safety Orders, or if he had sought to have the detention continued under Section 37(5A) the matter would, as Mr Sloan saw it, have ended up again before the Sheriff, and there would be little prospect of his continuing the detention. Mr Kennedy learnt of the decision from Mr Ritchie, the Depute Reporter for Strathclyde Region who was then in Orkney and who had been in Court. They both agreed that the case was finished and that there was no alternative to returning the children. Mr Kennedy also spoke with Senior Counsel on the telephone and had no doubt that there was no alternative.
- 12.5** Mr Sloan went at once to the Social Work Department and briefly discussed the practical consequences of the decision with Mr Lee. He told Mr Lee his view of the effect under the statute of Sheriff Kelbie's decision. He had not sought counsel's advice but he had spoken with counsel after he had seen Mr Lee and counsel agreed with his view. Mr Sloan was concerned for the children and still regarded it as being in their best interests that they should remain in places of safety, but saw nothing in the Act which could secure that. The further detention of the children was a matter for Mr Lee and not for him. In Mr Sloan's view, the case could not start again unless there was new evidence and Mr Lee understood that without new evidence Mr Sloan would not support fresh Place of Safety Orders but would liberate the children. He put his view that the children should be returned as soon as practicable in writing in a letter to Mr Lee which he wrote very shortly after he had seen him.

12.6 Mrs Susan Millar and Mr Lee discussed what steps should next be taken. Mrs Millar advised the taking out of new Place of Safety Orders as the difficulty which had been encountered was a procedural one. She was opposed to the return of the children, particularly with any immediate speed. There was an uncertainty whether the warrants were technically valid or not. Mrs Millar understood that Mr Sloan would liberate the children if new warrants were obtained but her own view was that the warrants still stood. There was a question whether if the warrants were still valid an appeal could be heard while they continued and there was a question of the possibility of taking out new Place of Safety Orders while an appeal was proceeding in relation to the existing ones. In the event no-one took positive steps to obtain fresh Place of Safety Orders in Orkney.

12.7 Both Mr Lee and Mrs Susan Millar were unhappy at the lack of preparation and explanation for the children if they were rushed home. After Mrs Millar heard of the reactions of some of the children to the news of their return she considered that a delay would have been in their interests so that their anxieties could be discussed. The co-ordinators were also unhappy at any speedy return. The possibility that a Place of Safety Order might be taken out in Strathclyde was considered for SB but after a senior social worker had interviewed SB no such course was taken. Mr Lee decided that the children should be returned.

12.8 A considerable crowd had attended at the Sheriff Court and after the decision had been given a number of people, including the parents of the nine children, moved spontaneously to the Social Work Department where Mrs Susan Millar, Mr Lee and Mr Clayton were discussing a press statement. A television crew stopped the march at one stage in order to obtain a better picture. The crowd made their way into the Department and into Mr Lee's room. They were abusive, aggressive and assertive. Television camera crews clambered on to chairs in Mr Lee's office to get good positions. The atmosphere was heated but the anger was substantially controlled. Mrs Millar attempted to telephone the police but Mrs M with some heated words and some violence physically restrained her from doing so. Mrs Millar was persuaded to leave the room as was Mr Clayton and the supporters agreed to leave the room clear for the parents. Eventually only the parents were left with Mr Lee. The situation then calmed down and a business-like discussion was managed with Mr Lee on the practicalities of transporting the children home. Mr Lee agreed to do what he could to have the children returned by nightfall. The police arrived at the Department but the crowd was orderly and left the building. The police took no action and Mrs Millar did not press any complaint against Mrs M. The children returned home that evening.

(B) THE CHILDREN IN
STRATHCLYDE

12.9 In Strathclyde Region the news that the children were to return was passed to the foster carers of the B children. On 3rd April the foster carer of WB and EB had been in touch with the Regional Council and with Mrs Susan Brown in connection with the arrangements which might require to be made for the children to attend the proof in Inverness. On the following day, however, when the proceedings were dismissed by the Sheriff, the foster carer was then informed that the girls would be going home. When she informed the girls WB was delighted but EB showed no emotion. The foster carer took them to the airport by a back route in order to avoid the considerable number of reporters and journalists who had gathered there. She took the girls to the aeroplane and said goodbye to them. Both girls were excited but EB was very 'high' and was showing off during the journey from Glasgow to Inverness. Some sexually explicit language was used by one of the girls and she acted in a manner which Mr Philip Greene and Mr Sam McTaggart, who were escorting the children on the aeroplane, regarded as provocative and exhibitionist. The conduct caused them concern and various considerations were advanced by Mr Greene to explain it. The other girl took control of SB and sat close to him on the journey.

12.10 The foster carer of WB and EB thought it would have been better if the girls had waited for twenty-four hours before returning home and had not been rushed off to the airport with the speed which, in the event, was required. No medical examination was carried out on them as would have been normal on their leaving foster care. Mr Philip Greene told the foster carer that the medicals would

be carried out in Orkney. Normally the foster carer would have liked to have had a full discussion with the children's social worker on the termination of the period of care but there was no such social worker sufficiently identified in the present case.

12.11 When SB's foster mother told him that he was to return home she was surprised at his response. She expected him to be excited, but he seemed subdued. He asked her if it meant that all the bad things would not happen any more. She was lost for words and telephoned Mrs Gwendoline Hamilton who had returned from holiday on 2nd April. Mrs Hamilton came round to the foster mother's house. The advice of Ms Ouaine Baine, the psychologist, was also obtained to the effect that the foster mother should listen to what SB had to say. In essence SB was telling her of things which had happened in a quarry which linked up with his earlier remarks about groping. On this occasion however he elaborated on the matter and eventually and with much embarrassment demonstrated to his foster mother and to Mrs Gwendoline Hamilton with the use of soft toys certain activities indicating that someone whom he named had handled him sexually. He also said that he was worried about certain games at home. The foster mother found the occasion very upsetting but after he had explained his concern SB became visibly excited and happy at the prospect of going home. Mr Philip Greene was contacted. SB's foster mother phoned Mrs Susan Brown expressing concern at his behaviour. She in turn spoke on the telephone to the Orkney Social Work Department to see if there was any way in which SB could be retained in his place of safety. Contact was also made with Mr Kennedy of the Reporter's Department in Strathclyde but the view was taken that unless SB was disclosing some new information a further Place of Safety Order could not be taken. The decision was eventually reached that SB should return.

12.12 The foster mother had considerable concern whether SB should return home. She would have preferred a short delay and a further investigation. However the decision was not one for her to make. Mrs Gwendoline Hamilton accompanied SB to the airport and his excitement increased. He made some remark about the car breaking down which was later understood by some to have represented a wish to stay where he was, but in fact the remark was made after they had arrived at the airport and did not reflect any reluctance on his part to return home. He greeted his sister with a hug and they boarded the aircraft for home. On his arrival his mother thought he looked dreadful and that he was completely disorientated. It was only after some months that he told her about his experiences.

12.13 The end of SM's stay at Geilsland School came abruptly on 4th April while Mr Mair was on holiday. Mr Philip Greene phoned with the news of the decision that the children should return and said that a plane was waiting to take SM home. SM was playing pool when he was called out and told the news. SM thanked the boys and the staff and said that he had enjoyed his stay. He was driven to the airport and boarded the plane to return to Kirkwall. After he had boarded the plane he took some control of the situation and the other children looked to him for leadership.

(C) THE CHILDREN IN HIGHLAND **12.14** The end to the children's stay in Highland came suddenly. Mr Paul Hersee first became aware of it through a news flash on the television while he was at MT's foster carers' house. He returned to the office and spoke on the telephone to Mrs Susan Millar. She informed him that the children could be going back that same day. Mr Hersee then set off to warn the various foster carers and children of the possible move. Later when the move became a certainty he helped to collect some of the children and return them to Kirkwall. Mr Jack Goodfellow heard from Mr Lee of the efforts being made to have the children returned that day. He and Mr Hersee arranged between themselves for the collection of the children from their various foster homes. They assembled at the airport, boarded the aeroplane with them and travelled to Kirkwall airport. The foster carers were concerned at the suddenness of the children's departure and TH's foster mother was especially upset.

12.15 On 4th April 1991 knowing that the court proceedings were underway PH's foster mother took him out for the day in order to be away from any media

coverage. When she returned home she found that the Social Work Department had been trying to get in touch with her and that PH was to be returned home. She took him straight to the airport, having as a result of being away from home delayed everyone's return. He was quite happy. He was dancing about and pleased to see his old friends again. His foster mother had not seen him express such happiness before although he had seemed happy enough to be staying with her. After he arrived at the airport he did not seem to Mr Hersee as talkative as he usually was and he did not want to be close to his sister TH. His foster carers had no contact with the family after his return.

12.16 TH's behaviour caused concern when she heard that she was going home. She had been given a parcel containing cards and articles from Orkney but she flung them all on the floor as if in a fit of rage. She was extremely distressed. She cried and indulged in very aggressive behaviour which was quite unlike her usual behaviour, smashing a doll on the ground. She started sucking her thumb. She seemed shocked and bewildered. She said she did not want to go home and stood like a wooden doll refusing to get dressed. She was unwilling to cooperate as her foster mother and the other foster girl dressed her. She left the foster carer's house in tears. In the course of the journey home she engaged in bizarre behaviour unlike anything which she had shown before. She became very agitated and active at the airport. She talked in baby talk and continued to play in a rough and violent way. She was very different from the quiet and retiring person such as she had been at her placement.

12.17 Mr Paul Hersee visited JM to tell him of his return. JM was very excited and pleased to be returning. There was no time to prepare for the return. His foster carers were sorry to see him go. He had been very easy to get on with and had seemed to enjoy being with his foster father on the farm. His foster mother gave him some extra pocket money on his departure. He packed and was taken to the airport to join the others to return to Kirkwall. That evening at about 10pm Mrs M telephoned to the foster mother saying that she was happy that JM had been happy and that he had enjoyed his holiday.

12.18 When the news came that the children were to be returned to Orkney Mr Paul Hersee visited BT's foster carers and told them and BT of the return. BT was surprised and happy but was sorry to be leaving his foster carers. He had heard of the news first on the television. Mr Jack Goodfellow called to collect him and take him to the airport. His foster carers were sad to see him go but glad for him that he was going home. They had found him a very likeable child and had grown fond of him.

12.19 MT was given as little notice as any of the children of her return. Mr Paul Hersee arrived with some mail and a favourite teddy bear and told her that she might be going home that day. While he was in the house there was a news flash on the television indicating that the children were to return. Later he telephoned and confirmed that she was going home. She was taken to the airport by Mr Jack Goodfellow along with her brother BT. At one stage at the airport MT started to recite a poem. BT immediately told her to be quiet and the matter was noticed by Mr Hersee as of possible significance. The foster carers were sorry to see her go. They had enjoyed having her with them. She had got on well with their own children.

12.20 Mr T stated that since the children had returned there had been continual emotional upsets and he found the recounting of their experiences to be gruelling and pathetic. He feared that the children might feel that they had been abandoned and was concerned lest parental authority had broken down.

(D) THE RETURN **12.21** Mr Philip Greene had inquired about the availability of seats on a flight to Orkney on 3rd April, anticipating that the case was going to fail. On 4th April he spoke to Mr Lee on the telephone and when Mr Lee told him of the arrangements he had made he questioned whether the children should return pointing out that the warrants still had a period to run. He also said that the children should have a further medical examination for the protection of the foster carers. Mr Lee however vetoed this idea. Mr Lee phoned Mr Ian Gilmour who also raised the matter of discharge medical examinations but Mr Lee explained that there was

no time and that the children had to be returned. Mr Greene then heard of the concern which had been raised about SB and he asked Mrs Gwendoline Hamilton to go to see SB. He himself went to the airport to make arrangements there with a view to avoiding publicity.

12.22 The plane landed at Inverness in order to pick up the children who had been placed in the Highland Region and parked some distance from the main terminal. The children from Highland Region boarded the plane and the flight continued without incident to Kirkwall.

12.23 The plane landed at Kirkwall in pouring rain. Mr Philip Greene had asked Mr Lee to arrange for a place where the children could be reunited with their parents in peace and quiet. But Mr Lee had said that there would be no social workers at the airport. At Kirkwall they found the airport packed with people. There was a substantial representation from the press. There was a bagpiper playing and the airport was decorated with bunting. After the aeroplane had landed a police officer came to the plane and advised Mr Greene that he should not leave the plane which Mr Greene took as a warning for his own safety. Mr Greene insisted that he must hand over the children and went with them to the terminal building to hand them over. There was a large number of people in and around the airport buildings. The parents were waiting for the children in the Customs room. Their other children and certain lawyers were also there and the children were reunited with their parents in the comparative privacy of that room.

12.24 It seemed to Mr Paul Hersee that nobody was in charge or control of the crowd. He had no idea who the people were who were taking the children and felt that the whole hand-over was a shambles. As the crowd engulfed the children and no-one seemed to be taking any interest in Mr Goodfellow or Mr Hersee they thought there was no point in going further and returned to the aeroplane. They both took the view that there was no benefit to the children in experiencing the reception at Kirkwall airport and both would have preferred in the interests of the children that they should have been handed over privately and quietly to their parents with some involvement by the foster carers. They both took the view that a day should have been allowed in order to let the children collect themselves before their return and adjust themselves to the change in circumstances. Mr McTaggart would also have preferred that the parents had come out to meet the children privately. He and the other social workers took the view that there was nothing further that they could do and accordingly they took off in the aeroplane back to the mainland of Scotland.

II. The Decision to Abandon

12.25 After 4th April Mr Sloan had two consultations with counsel, on 8th and 10th April. At the former the possibility of an appeal against Sheriff Kelbie's decision was considered and Senior Counsel advised that if the appeal succeeded the case should be abandoned. At the second an appeal was decided upon. It was also decided that whatever the outcome of the appeal the case would not proceed further. It was further decided that the parents and the children should be told in confidence that this course had been determined, and on 12th April a letter was sent to the parents' solicitors explaining that the case would not proceed after the appeal because of the prejudice done to the interests of justice, the effect on the witnesses of Sheriff Kelbie's views and the enormous media publicity. On 12th April Mr Sloan phoned Mr Lee to inform him in confidence of his intention to appeal.

12.26 The decision to abandon was properly a decision by Mr Kennedy with which Mr Sloan concurred. It was a decision reached on the advice of counsel who considered the prospects of success to be remote. One consideration was that Sheriff Kelbie had, as Mr Sloan put it, rubbished the material on which the case was to proceed. Mr Sloan had intended to rely essentially on the evidence to be given by the W children. He left the preparation of the evidence to his solicitor and Counsel but he believed that it would be unlikely that he could succeed if he relied only on the hearsay of the interviewers and their records to prove the

grounds for referral. He had not taken account of and indeed had not anticipated the criticisms of the methodology which were put forward later by Sheriff Kelbie.

12.27 Another element in the thinking was the likely effect which the Sheriff's criticism of the evidence was thought to have on the children who would require to give their evidence. Considerable publicity had been given to the Sheriff's strong criticism of the evidence. Any critical account of the allegations if seen by the children could cause them to anticipate ridicule if they were to present them in evidence. The intention of Senior Counsel had been to rely on the oral evidence of the children themselves led as witnesses. The impression which Mr Sloan had carried away from the publicity was that the Sheriff had described the children's view as fantasy and he considered that the prospect of getting the evidence from the children would now be remote as they would understand that they had not been believed. No one thought to ask the W children whether they were aware of what the Sheriff had said but Mr Sloan did not know how he could properly have been able to find that out and Mr Kennedy considered that they would inevitably be affected. They would be left in little doubt that an adult had decided that their allegations were fantasy.

12.28 Mr Sloan raised the suggestion that the difficulty might be overcome by securing that a different Sheriff took the proof. Indeed the Court of Session directed that the proof should be heard by another Sheriff. But the Acting Reporter and his colleagues knew of no precedent for such a course and, while they could hope it might be achieved, it was far from certain that it would be and they could have no confident expectation that the problem could be overcome in that way. Furthermore, so far as the children were concerned, Mr Sloan believed that they would not appreciate the difference between one Sheriff and another; the discouragement given by the destructive criticism of their evidence by one Sheriff would not be obviated by the selection of a different Sheriff to hear the proof.

12.29 A further consideration for the abandonment was the consideration that the Sheriff had publicised some at least of the evidence of the allegations. As Mr Sloan saw it, the children's evidence could now be said to have been derived from what they read in the papers. It was not the publicity which influenced the decision to abandon, but the publication of the Sheriff's views on a selection of the evidence which he had considered. The evidence had been made public and the evidence of the oral witnesses was now open to the challenge of contamination. Sheriff Kelbie had not, at least in his revised Note, described the activities which the three W children had alleged but he referred to some elements of the evidence and there had been publicity already given to the allegations.

12.30 Another reason related to the return of the nine children to their homes. Mr Sloan anticipated that in giving evidence the children would feel under pressure and feared that after they had returned home they could even retract their evidence. There had always been the possibility in mind that the children might not speak up at a proof and support the allegations. After they had returned home, however, they would, if there was any truth in the allegations of sexual abuse, be subjected to sufficient pressure to deter them from supporting those allegations in Court. Their oral evidence could, accordingly, no longer be relied upon. In Mr Sloan's experience children want the abuse to stop while at the same time not wishing to get their parents into trouble. So, if a guarantee is given that the abuse will stop, a retraction often follows.

12.31 Another consideration was that the period for which the hearing had forbidden any access to the W children by Mrs W was shortly to expire. Mr Sloan believed that once even supervised access was allowed it was likely that the W children would be discouraged from making any further allegations on the matter which they had described before. Mr Sloan believed that it would not be possible to secure a further denial of access and to apply for a continuation of the prohibition on the ground that the evidence of the children was required to be safeguarded for another case was not a proper course to take. Mr Kennedy regarded the prospect of continuing the prohibition as remote and no enquiry was made into the possibility of seeking a continuation of it.

12.32 There was, of course, another source of evidence available than the oral evidence of the children and that was the evidence of the interviews. But it had

all along been intended to present the case on the basis of the oral evidence of the children. That evidence was regarded as very important and as the source of the Acting Reporter's best hope of success. If that had failed the position would have been reassessed and, even then, it was not certain that the evidence of the interviews would be used. Moreover, the public criticism of that very evidence by one Sheriff made it less easy to present that same hearsay evidence with confidence even before a different Sheriff. Senior Counsel advised that the effect of the hearsay evidence had been diminished by Sheriff Kelbie's published criticism and her view was that the case could not be re-run at all.

12.33 The view appears to have been, as counsel stated in the First Division (Sloan v B, 1991 SLT at 544E) that 'the whole basis of the cases had been subjected to an unjustified and public attack, the result of which was that it would now be almost impossible to find a witness whose views had not been affected by what had occurred'. Counsel had also in March expressed anxiety about the interviews with the nine children, and in particular about the risk of pressure and the validity of the evidence obtained. The psychologists instructed by the Acting Reporter wrote to counsel on 5th April giving the proposed topics to be explored in their report leading up to an opinion on whether the evidence with regard to individual children seemed to support the grounds for referral, but it was not considered that that opinion should be awaited. As Mr Kennedy saw it, their opinion on the evidence from the interviews was no longer relevant. The case was beyond redemption.

12.34 Some thought was given to the possibility of starting again from the beginning. The Sheriff had decided the case on a matter of competency and the Acting Reporter was not technically barred from starting again. But Mr Sloan considered that the case had fallen and he could not start it again. The Social Work Department had not come to him with new evidence and he regarded the case as finished.

12.35 Mr and Mrs M and Mr and Mrs T would have preferred the case to have gone to proof. On 12th April their law agents wrote to the Acting Reporter's agents saying that they would press for a proof. They repeated this statement of intention in a further letter of 17th April. It was only on 3rd April that the case of the T children had been conjoined with the others. But once the cases had been conjoined the fate of one would determine the fate of all.

III. After the Return

12.36 The strength of the views held by the members of the police and the Social Work Department on the propriety of removing the children is reflected in some of the subsequent actings. A further case conference was held on 9th April at which a report by the Social Work Department was presented narrating the dismissal of the case by Sheriff Kelbie 'on a technicality' giving certain information about the children and concluding that it was 'strongly believed' that the children would remain at risk while still at home. It was proposed that the children should be placed on the child protection register. Dr Broadhurst, being the general practitioner looking after the W family, and Mrs May Armour, the Health Visitor in South Ronaldsay, both voted against registration in every case. The parents were not invited as in Mrs Susan Millar's view their response to Sheriff Kelbie's decision was such as to inhibit discussion and as Mr Lee believed there was an ongoing criminal investigation and an outstanding question of possible prosecution. Mr Lee however wrote to the parents on 5th April telling them that the conference was to be held and that they would be informed of the outcome. On 11th April Mr Lee wrote to the parents informing them of the decision to put the name of the respective children on the register. He wrote in his name because of the hostility which was directed to Mrs Susan Millar.

12.37 On 1st May 1991 it was announced by the Crown Office that there was no continuing criminal investigation in relation to the nine children and that no further or fresh enquiries were in contemplation. On 31st May Mrs Susan Millar's employment within the Social Work Department which she had agreed to continue

after her letter of resignation in February came to an end. On 15th July a further case conference was held. On this occasion the parents were invited and attended. It was then decided that the nine children should be removed from the register, although the police dissented from that decision. The proceedings in the Sheriff Court having been brought to an end the opportunity for any of the interested parties to obtain a judicial decision had been lost. The cost of the operation of removing and caring for the children was in the region of £1 million.

IV. The Media

12.38 The removal of the children gave rise to immediate and extensive interest in the media. At about 9am on 27th February 1991 Councillor Annal phoned the Aberdeen Press and Journal and the Orcadian and advised them to hold their presses as he considered publicity to be desirable to expose what he saw as a terrible blunder. Mr Lee had his first contact with the press in the form of a call from the Aberdeen Press and Journal. He had a press statement available. It had been anticipated that the removal of the children would attract some attention from the media but the Department was not prepared for the extent and intensity of the attention paid by the press to the affair. Some of the reporting introduced references to the alleged abuse as being ritualistic or satanic, even in some of the early publications. The source of these descriptions remained obscure but they were not labels which the Social Work Department considered relevant to the case.

12.39 The children were exposed in the publicity in a way which the Social Work Department thought was against their interests. Mrs Michelle Miller thought that the children's privacy was being breached by the press but she recognised that that was a matter for their parents. The identities of the children could hardly have been concealed within the community of South Ronaldsay or even more generally in the Orkney Islands but the extent of the national press coverage secured that their identities could be noted throughout the United Kingdom. It was not long before cards were being sent from England addressed to the children by name reflecting the extent to which the identities of the children had been allowed to become known. The Sunday newspapers on 3rd March publicised the alleged involvement of the Reverend Morris McKenzie with photographs so that it would have been easy to learn of his identity.

12.40 The initiative was taken for the most part by persons other than the families themselves. Mr and Mrs B regarded it as important that the whole country should see what was happening. Mr and Mrs M considered that secrecy would not help. Mrs M explained that all they had done was to open the door and invite the press in for a cup of coffee. She wanted their denial of the allegations to reach a wider public and to demonstrate that they were false. She believed that the decisions taken by the Social Work Department, the Children's Hearing and the Sheriff in relation to the W children in November and December 1990 were wrong. Mr and Mrs T had reservations about the publicity sought by the Parents Action Committee which Mrs T regarded primarily as a fund-raising organisation. Mrs T was concerned that her extended family should not know of the matter until the children were returned and was not happy with what was being said to the press. She was concerned that statements were being made on her behalf without anyone consulting her. Mrs H did not invite the assistance of the press but considered them to be helpful.

12.41 The publicity and the media campaign were not conducive to easing the relationship between the Social Work Department and the local community. The media involvement made it difficult for the Social Work Department to work with the parents. The continued publicity kept the public hostility alive. Mr M wanted the matter to be resolved by discussion and considered that the publicity did not prevent any dialogue with Mr Lee but he accepted that it made dialogue more difficult. Mr M was content to see publicity given to a comment by one of the solicitors that 'The islands have lost confidence in the Social Work Department', a statement which he regarded as one of fair comment. The polarisation which

occurred between the Social Work Department and the families was assisted by the media involvement.

12.42 So far as SM was concerned the press publicity provided him with information about the course of events in Orkney more promptly and more effectively than any official communication. Mr Mair regarded it as some kind of substitute for the statutory notifications of the process of the Children's Hearing and was concerned lest it had a disturbing effect.

12.43 Statutory provision on publicity in relation to Children's Hearings is to be found in Section 58 of the 1968 Act. The presence of bona fide representatives of a newspaper or news agencies is specifically preserved by Section 35(3). The press arranged among themselves that some only of their representatives should be present in the room where the hearing sat on 5th March since there was quite inadequate space for all of them. As Mrs Susan Millar recognised the restraint on publication of information which would lead to the identification of the children is not adequately effective in a small community where local gossip will disclose the identities of children involved in hearing proceedings. She did not consider that the publicity given to the hearings of the nine children was in their interests. In her view it would be preferable to impose restrictions on what could be reported rather than to exclude the press altogether. Mr Sloan felt that the presence of the press might have affected the parents and the social workers and considered that the press should not attend unless it was very clear what they could or could not do.

12.44 The coverage by the media was extremely upsetting to the staff of the Social Work Department who regarded it as ill-informed and sensational. They found the television and radio reports more upsetting than the national press. There was a particularly sensational piece of filming broadcast on the day before the proof hearing before Sheriff Kelbie. Mrs Trickett also considered the coverage to be unhelpful and regretted the greater attention which seemed to be paid to broadcasting criticisms of the Social Work Department than to reporting their position. She was not infrequently telephoned by the press in the evenings for her views on stories which she regarded as ridiculous and although the request was accompanied by an apology the hour was too late for her to contact the Social Work Department in order to have the matter investigated.

12.45 What caused particular irritation to the Social Work Department was the evident freedom which the parents and the Parents Action Committee enjoyed in presenting their views on the case while the Social Work Department felt bound by considerations of confidentiality not to publicise the evidence which they and the police had obtained. They did not feel that because the parents appeared to have waived all considerations of confidentiality regarding themselves and their children that the Department could assume that the information which they had could be made public. They felt that the media were presenting a one-sided account of the matter and while that was the consequence of the freedom and constraint which respectively applied to the parents and the Department it seemed to the latter to be biased and unfair. The Social Work Department sought to be as open as they felt they could be, but they had no control over the extent to which such information as they did provide was taken up by the agencies of the press. In the event the role and the working of the Department and the constraints upon them were not widely publicised. Mr Lee considered that the matter with which they were dealing was one which should be investigated by the due process of law and not in public debate. But he welcomed the opportunity of the Public Inquiry to bring into the open the reasons which he had for the action which the Department had taken.

12.46 In the situation which developed the appointment of a Press Officer was a necessary course to deal with the numerous enquiries being made of the Social Work Department and to give some indication to the media of the Department's position. The number of telephone calls to the Department was greater than the existing staff could reasonably deal with and required the services of a full-time officer. Mrs Susan Millar suggested the appointment of a Press Officer during the early days of March but Mr Lee did not take up the suggestion for about a fortnight. While some press attention was to be anticipated, and indeed Mr

Gilmour had in his reference to dawn raids on 21st February sought to warn Mrs Susan Millar that the removal of the children would attract publicity, no-one predicted the intensity of the media interest or the necessity to engage a Press Officer to deal with the enquiries and the publicity.

12.47 Mr Lee personally took on the handling of most of the enquiries including those from the parents. He did not keep any full record of what was being said or decided so that the other members of staff did not have complete knowledge of the decisions which he was making. He was subjected to some personal abuse on occasion by certain of the families and was visibly suffering from stress. Mrs Millar was concerned for him and sought to find support for him. She felt that his ability to give directions was being affected and she spoke to Mr Starrs of the RSSPCC to find assistance with a press statement which Mr Lee was struggling to draft. Mr Starrs prepared an outline press statement in order to help them.

12.48 The strain was particularly severe on Mrs Susan Millar and Mr Lee who were most directly affected by the publicity and the campaign promoted by the Parents Action Committee. It was at them that most of the press criticism was primarily directed. In addition to a variety of incidents which interfered with his domestic life and a number of abusive and unpleasant telephone calls Mr Lee was subjected to public criticism and to calls for his resignation. The publicity even touched on a private domestic tragedy which could not but have a demoralising effect. His ability to manage the Department was seriously affected. His ability to think and to make objective decisions was adversely affected. He had a particular concern lest information which should remain confidential should be leaked to the press. Mrs Millar was similarly conscious of the stress under which they were all working. She found the attentions of some press representatives distracting, such as the presence of a camera outside her office window but she regarded that as a practical problem to be overcome. She was frequently working from 9am to 11pm in the evening to clear her backlog of work.

12.49 The field workers experienced some interference with their own freedom of movement and their private lives. Mrs Mary Finn was only asked once to speak to a television interviewer and declined but Mr Charlie Fraser experienced some publicity in respect of his own religious beliefs which sought to present him as a Christian zealot fighting satanism which did not accurately represent the character of the alleged abuse nor his own individual attitude to it. He also was subjected to some abusive telephone calls from unknown callers and he was filmed by television reporters when he went outside. Miss Lynn Drever discovered that her religious affiliations were being investigated which she found stressful. Mrs Julie Lee was not a particular subject of attack perhaps because she was a new arrival but she found the press intrusive.

12.50 The media attention affected the field workers in the Social Work Department not only in their movements and the conduct of their ordinary lives but also through the pressures which the publicity imposed on their work in the Department. It seemed to Mrs Mary Finn that the Parents Action Committee were seeking the attention of the press to discredit and criticise the Social Work Department and the other agencies involved in the removal of the children. Some of the suggestions put forward in some press coverage caused annoyance to the staff, such as the suggestion that members of the staff had attended a conference on satanic and ritual abuse, and that they had been influenced by their personal Christian convictions. Mrs Finn was conscious of the pressure of the publicity and thought that the tension could have been alleviated if a press officer had been appointed at an early stage. A psychologist, Dr J Furnell, was contacted and came to talk to the staff collectively and individually and to offer some support, advice and counselling. The administrative staff came under particularly heavy strain in having to deal with a greatly increased number of calls from journalists and others so that it became extremely difficult to cope with the normal workload.

12.51 But despite the intrusive presence of reporters and the stress of the media coverage the work of the Department and the day-to-day management was continued without being materially affected. Some clients were discouraged from visiting the Department but what was done was not for the most part done to different effect as a result of the publicity, although it was only done with difficulty.

The understanding of the parents' attitude which the Department took from the media campaign was reflected in some decisions such as the decision not to invite them to the case conference on 19th March but the publicity attendant on the removal of the children had little effect on the actual course of actings by the Social Work Department or the other agencies, although it added a major element of strain in the process of decision making and the carrying on of the Department's work. The actings of the social workers were not influenced by the anticipation of press coverage. Mr T considered that the media attention served as a restraint on the Social Work Department but the effect of the publicity only went to increase the difficulties in the relationship between the Social Work Department and the local community and there is no evidence that any beneficial restraint was achieved. The decision by Mr Lee to return the children on 4th April was not influenced by the pressure of publicity. Moreover the publicity did not achieve any return of the children prior to the hearing before the Sheriff.

12.52 The support which might have been afforded by the Social Work Department to the parents was provided to some extent by the press. Mr M found them kind and patient. He wished in particular for Mr Lee to come to South Ronaldsay to discuss the case but the highly critical attitude of the local community which was reflected in and fostered by the press constituted a major deterrent to staff of the Department from taking any such step. In keeping alive the hostility which had been provoked by the removal of the children the publicity had some effect on the failure of the Social Work Department to take any more active initiatives towards supporting the parents than they did. The social workers readily anticipated that if they went to South Ronaldsay to meet the parents they would be met by aggressive behaviour and there was a limit to which that was tolerable. They had little confidence that a private meeting could be arranged where the interest of the press was so great and the activity of the reporters so assiduous. Accordingly such proposals as they made for discussion with the parents were all related to meetings in Kirkwall.

12.53 To an extent the publicity added some strain and anxiety to the staff of the RSSPCC engaged with the nine children and to the foster carers and carers for the children. The media interest was not helpful in managing the foster care of the children at least in Strathclyde where there was a fear of the children being identified. This was a source of concern to the Strathclyde foster carers. The RSSPCC discontinued the use of the taxis to take the children to Strathaven lest the addresses of the children might be discovered. The publicity made demands on the time of the senior staff of the Strathclyde Social Work Department but did not otherwise affect their actings. The coordinator Mrs Susan Brown found that her communication with Orkney Social Work Department was rendered more difficult because of the extent to which their telephones were engaged and she found that the anxieties and pressures created by the publicity were prejudicial to decision making. But any failure in decision making so far as the children in Strathclyde were concerned was the effect of deficient organisation rather than the consequence of publicity.

12.54 The Acting Reporter and his Department in Strathclyde were also conscious of the pressure of publicity, the general inconvenience to themselves and their families and the practical consequence on ease of communication, but neither Mr Sloan nor Mr Kennedy considered that their decisions or actions were affected by the publicity. They each noted a considerable degree of misunderstanding or ignorance of the work of the Acting Reporter and Mr Sloan took the unusual course for him of a press interview to try to clarify the legal processes. The publicity did not affect Mr Sloan in the way in which he dealt with the case but the effect of the publicity on the future use of the children's evidence was an element in his decision to abandon the case, a decision which was contrary to the wishes of at least some of the parents. The publication of the substance of the allegations could have a significant effect on the value of a child's evidence since it could be suggested that the child was influenced by what had been published and not speaking from the child's own knowledge. It would not have been impossible for any evidence given by the nine children to have been attacked in this way. SM certainly had

seen the newspaper reports and was able regularly to see a selection of the newspapers over the period of his detention.

12.55 To some extent the public interest and public concern fuelled by the publicity hampered enquiries in South Ronaldsay into the substance of the allegations. Indeed the local constable, Constable Raeburn, experienced some interference with his general freedom of movement and availability as a result of inquiries by the press. The major difficulty before 27th February had been the necessity to keep the proposed operation secret. After the removal of the children, police investigations and in particular a search for the locus of the alleged incident was rendered more difficult through the effect on the local people of the publicity. Door to door enquiries were considered to be out of the question. The police required to act with particular sensitivity and they felt that if anyone had seen anything which would go to confirm the allegations they would not come forward in the face of the campaign which had been promoted and its supporting publicity.

12.56 One obvious feature of the public criticism was that although the removal was a joint operation by both the Social Work Department and the police the attack was brought against the former to the virtual exclusion of the latter. Mrs Susan Millar explained this as being due to the history of social work departments as scapegoats. Social work departments had become an easy target for criticism. The police had no such history; they were a larger organisation and they were more respected in connection with public security. But the removal of the children had been a joint operation undertaken by the two authorities together and it was for the police as well as the Social Work Department to satisfy themselves that the grounds for taking that step were justified. If the decision to remove the children was open to criticism that criticism might have attached to both of the agencies who engaged in it.

PART THREE
COMMENTARY

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XIII THE EVENTS PRIOR TO THE REMOVAL

I. The General Background

(A) THE W FAMILY **13.1** Much of the history relating to the nine children cannot be understood without an appreciation of the history of the dealings by the Social Work Department with the W children. Moreover much of the action taken by the Social Work Department in respect of the nine children was heavily influenced by their experience with the W children, so that decisions taken and courses adopted with regard to the W children easily became or were even treated as decisions and courses relating to the nine children. Detailed consideration and debate occurred rather in relation to possible departures from the course taken with the W children than in matters where it could readily be assumed that the same course was going to be taken. Thus there was discussion on the place and time of the removal of the children, where a different course was to be taken, but little or none on matters of separation of the siblings or of access. It was because of the belief which had been fostered through their dealings with the W children that particular objects could hold a secret and sinister meaning to the W children that the decision was taken to forbid the nine children taking personal possessions with them. The pattern and precedent set by the W case coloured and in some respects determined the course of action taken with the nine children as if the two matters were identical or even as if the problem of the nine children was a continuation of the problem of the W children. In the case of the W children it was believed that all the children taken to places of safety in November 1990 were equally at risk of abuse. Correspondingly the assumption was readily made that all of the nine children were at risk and on the basis that a group activity had been taking place there was less thought to look at each child individually. The allegations of the W children linked the nine children in what was taken to be a single activity involving all of them so that the matter was seen as one case involving four families.

13.2 The Social Work Department had been working or endeavouring to work with the members of the W family for some time prior to 1991. The contact over several months to November 1990 had however been less intensive. What Mrs Susan Millar had understood on her arrival to be an inactive child care case was in fact a problem of very considerable complexity. Having been left over the summer months of 1990 with occasional attention but no serious study it came suddenly to life at the end of October and forced the Social Work Department to realise that there was matter which called for very serious concern. By that stage they had already lost any sympathetic contact with Mrs W. She had turned to friends for support and the Department found itself already alienated and exposed to hostility. In so far as there were problems concerning particularly the younger children of that family while the Department believed that these existed they did not appreciate the full complexity and difficulty of those problems nor did they have the stage of development of the younger children fully explored and assessed after they were taken into places of safety in November 1990. The possibility of psychiatric or psychological assessment was canvassed but except in the case of one child it was not pursued.

13.3 Furthermore the uncertainty which the management of the Social Work Department felt about the W children and about those who were supporting Mrs W inclined their minds towards the idea of the existence of some kind of organised abuse and although that idea was only half-formed and hardly conscious their minds were set and ready to accept the thought of it when the allegations came to be made. As early as November Mrs Susan Millar had voiced the possibility of an involvement in abuse by some person or persons outside the family. The

germ of the idea implanted at that early stage, fed by the undefined but growing concern about the correspondence, was ready to spring into conscious belief when the allegations came to be made. The Department failed to preserve a wholly open mind but allowed their thinking to be coloured by the undefined suspicions which they failed to explore.

13.4 Another element in the earlier history which played a part in the actions of the Social Work Department was the uneasy relationship which already existed between members of the staff and those persons who had befriended Mrs W. This can be traced back for some considerable time prior to the events of November 1990. Even before that date battle-lines had begun to appear and the attempts by such people as Mr and Mrs M to assist in a family whose complex relationships and character they probably did not fully appreciate were seen by the Department as a massing of forces on the other side of a disputed situation. Thus the attempts to help Mrs W took on a sinister and suspicious appearance in the eyes of the Department and correspondingly the efforts by the staff to assist were seen by Mrs W and her friends as unwelcome intrusions. No steps were taken to resolve the growing antagonism between the Department and Mrs W and her friends and relationships were left to deteriorate to the prejudice of future developments. The Social Work Department interpreted as hostility the sympathy with which neighbours were drawn in to help Mrs W and her family.

13.5 While Mrs Millar and Mr Lee's minds were already coloured by their experience with the W children an even more set determination in the belief that organised sexual abuse had occurred was evidenced by Mrs Liz MacLean and Miss Janette Chisholm. The RSSPCC had been engaged in November 1990 to carry out an investigation with the W children and while Mrs MacLean saw the object of her work as communication the underlying purpose of the communication was the discovery of evidence of abuse. With an impression which may have been exaggerated in hindsight that MW was about to make a disclosure, either because of her relaxed condition as Mr Sam McTaggart saw it or (in sharp contrast to that perception) because of her excited state which Miss Chisholm likened to a steam kettle, Mrs MacLean was the more ready to believe the allegations which MW made on 6th February. Miss Chisholm's reference to a 'breakthrough' reflects at least her conviction that there existed abuse to be uncovered. The strength of the belief in the truth of the allegations extended to all the Society's interviewers and indeed was at times reflected in the presentation of their case in the Inquiry. In particular Mrs MacLean and Miss Chisholm did not keep a sufficiently open mind in assessing the probability of the existence of the abuse which was later alleged.

(B) THE SOCIAL WORK
DEPARTMENT

13.6 The Social Work Department were working with no more detailed guidelines than those with which the staff had worked in other authorities, the general principles of Effective Intervention and some understanding of the Cleveland Report. The criticism that they ought to have had written guidelines was met by the observation that even if they had completed them by January 1991 no such guidelines could have anticipated the unusual and special circumstances which prevailed in the present case. As Miss Lynn Drever explained the general guidance of Effective Intervention and the Cleveland Report did not give a complete answer and from what she saw neither the guidelines of the Highland Region nor those of Strathclyde Region would have done so. While it may well be that had guidelines already been drawn up they would not have specifically dealt with problems of alleged organised sexual abuse nevertheless they would probably have indicated the main principles and procedures which would still be applicable in such cases. The state of the Department's organisation is reflected in the fact that the Department did in fact have some minimal guidelines of some years' standing although the management were evidently unaware of them. At all events the Department was at best inadequately furnished with guidelines and procedures on the problems of child sexual abuse. The preparation of policy guidelines and indeed of operational guidelines is no light task and neither Mr Lee nor Mrs Susan Millar can be criticised for having failed to produce such guidelines within the relatively short period of months since they had taken up their respective appointments in the Social Work Department. The proper preparation of policy guidelines requires

full consultation with the relevant committees and the preparation of operational guidelines should be a matter for detailed consultation with those of the staff who are likely to be particularly concerned in their implementation. It has been suggested that the Department should have temporarily adopted some other local guidelines such as those of Highland Region of which they had a copy. But there is nothing to show that they would thereby have obtained further guidance than they had on multiple abuse.

13.7 Even although the Department was aware of the general principles of Effective Intervention and the suggestions put forward in the Cleveland Report and while lip service was paid to the general guidance there contained the Department did not follow all of the advice provided by these sources. Thus as is mentioned later they did not hold a multi-disciplinary conference at any early stage to assess and analyse the evidence which they had received and to determine on the proper course of action. Even although Effective Intervention did not specifically deal with organised sexual abuse the general guidance which it gave could have been more fully and more usefully followed. The danger of seeing organised sexual abuse as a distinct category is evident in the assumption that because Effective Intervention did not mention it specifically the guidance given there was not relevant to the case. The Department did not seek support for their dealings in such guidelines in the Cleveland Report or Effective Intervention as were appropriate to the case before them.

13.8 One major deficiency over the critical period of the decision to seek and enforce Place of Safety Orders was the absence of any departmental minutes, records or notes of the meetings held and the decisions taken. Mr Lee recognised in retrospect the worth of such records. Some notes were kept by Mrs Susan Millar but they were written up some time after the events and while some contemporary notes were traced there was no formal record kept by the Department. The tradition of relying on oral communication still survived. The Inquiry was left to piece together the history from the informal records which had been kept by some of those most closely involved and from their recollections. More importantly for the management of the Department there was no written record to which reference could be made as a previous statement of what information had been received or what had been decided. Not only did the Social Work Department have no written record from Mrs Liz MacLean of the interviews which they had instructed to be carried out by the RSSPCC but they failed to keep any adequate record of the discussions on the 14th of February. Such a record would have been valuable not only for future reference but as a means of clarifying their own thinking. In the event there was no record either of the actual decision to seek Place of Safety Orders or more critically of the precise grounds on which those Orders were to be sought in respect of each of the children in question. Thus there were no formal minutes of the meeting with the social workers or that with the Police on 14th February. While no individual case file was appropriate at a stage where there had been no full identification of the families no sound reason was suggested why written records of the meetings and decisions and important communications could not have been kept. While there are no doubt many decisions in the course of a busy Social Work Department which cannot practicably be recorded in writing, the present case was one of such evident importance that a written record of the critical stage of decision should certainly have been made. While small Social Work Departments may have an advantage in the possibilities that are present for personal communication at all levels within the Department there is a distinct risk of less efficiency in ensuring that staff are clear about precisely what is required of them following on an informal meeting. The recording of significant decisions and responsibilities and the circulation of those to the staff concerned is an essential step in ensuring that work is progressed as has been determined. The Social Work Department failed to keep adequate records of meetings, communications and decisions. The failure to record decisions of what was to be done, or what had been agreed or what had been done was but one aspect of this lack of organisation and control. The Department had of course worked on a tradition of oral communication and doubtless in the ordinary work of a small department there could be little harm in such a practice. But in a major operation

of complexity room readily occurs for misunderstandings. There were many communications passing and written records should have been maintained. While undoubtedly the Department was under considerable pressure that is no sufficient explanation for the absence of proper recording. Had a case manager been appointed at the outset that person could have secured the collation and recording of information.

13.9 Another element in the background to the critical events relates to the senior management within the Orkney Social Work Department. In February 1991 Mr Lee was still endeavouring to complete his revised staffing structure. He was a relative newcomer to Orkney as was Mrs Susan Millar. In the confusion of reorganisation her responsibilities were not wholly clear and the general shortage of staff led to excessive burdens of work being placed on both her and Mr Lee. This might have been tolerable had their working relationship been a strong one but Mr Lee's more thoughtful and measured approach fitted ill with Mrs Millar's more forceful and determined style. Her concern at what she saw as inadequate attention being paid to child protection work was one conscious expression of a general distaste for the whole managerial position. When she wrote her letter of resignation on 8th February Mr Lee already knew of the allegations made by MW but Mrs Millar had not yet been told of them. It was while she was wrestling with the reaction which her letter had received, her agony of doubt increased by news of the death of a close relative, that the news was broken to her of the apparent corroboration of allegations of organised sexual abuse. While Mrs Millar agreed to remain with the Social Work Department over the troubled weeks which lay ahead the uneasy relationship which existed between her and Mr Lee and the stress under which they were both working did not assist towards a careful and considered resolution of the problems which faced the Department.

13.10 Finally it cannot be ignored that all these events were taking place in a relatively isolated island community among people who were not indigenous inhabitants but who had in the relatively recent past come to settle in the Orkney Islands. Not only the W family but all the four families had at different times moved to Orkney from the mainland of Britain. Nearly all the staff of the Social Work Department engaged in child care work had come to Orkney in the past few years from other parts of Scotland or from England. It would not be easy for a relative newcomer to appreciate and understand the particular character of the island society which they were there to serve.

(C) CONTAMINATION **13.11** Behind many aspects of the case lay a fear of what was referred to as contamination. By that was meant contamination by extraneous influence of material which might require to be used for the purposes of some litigation whether criminal or civil. At the root of the problem lie the peculiar difficulties inherent in the presentation of children's evidence in a court of law. The anxiety in the present case which at times appeared to be obsessive was that any evidence which the children might be able to offer to a court should not be open to any attack as having been prompted, influenced or otherwise affected by the actings or words of others so that its reliability could be challenged by any party with any opposing interest. This anxiety finds one expression in the requirement for confidentiality of information in relation to Place of Safety Orders. As the procedure guidelines in Strathclyde provide (page 18, paragraph 2.10) 'the danger of prejudicing the integrity of statements from witnesses and of evidence must be borne in mind'. On that approach it can be argued that a social worker dealing with a child against whom sexual abuse is alleged should be given no information about the allegation or about the child so that it cannot be suggested that anything the child says to him or to anyone else has in any way been inspired by contact with that social worker. Mr Ian Gilmour on the other hand considered that the social worker should have a comprehensive briefing and the opportunity to discuss the case with full access to the evidence. He took that view partly because he considered it important for the social worker to be vigilant to all aspects of the case and to be sensitive to any factors which are of importance, and partly because all sorts of questions can be asked of the social worker by parents and children and social workers should be in a position to answer such questions. It is submitted that

adequate training and experience should enable sufficient counter to be given to any suggestion of contamination or leading. In the written submission presented on behalf of the RSSPCC it is suggested that a process of education is needed such that lawyers move away from attacking evidence on the ground of contamination. That result may be best achieved by establishing and recognising the ability of a skilled carer or interviewer to avoid contamination rather than take extreme measures of isolation in fear of what was seen to be a major hazard. As is stated in the submission on behalf of the RSSPCC the doctrine of contamination is illogical in theory, inappropriate in practice and baseless in fact. The Social Work Department and the Police and the RSSPCC took an exaggerated view of the risk of the contamination of evidence.

13.12 The fear of contamination prompted the prohibition on the social workers employed in the removal from engaging in discussion with the children about the alleged abuse and lay behind the RSSPCC's attempt to confine all disclosure to the privacy of the interview sessions conducted by their staff along with the Police. Such a restriction however is artificial and unnatural. It cannot be predicted when an abused child will tell of the abuse nor to whom he or she may confide. While it may well be that a relationship of trust will make a disclosure more likely the relationship cannot be fostered with one or two individuals to the exclusion of all others so as to secure that disclosure will be made only to those trusted persons. The reception of children's confidences should not necessarily be seen as an activity which for all purposes can only be conducted within such special premises.

II. The Decision to Remove

(A) THE CRITICAL INTERVIEW WITH THE W CHILDREN

13.13 The basis on which the decision to remove the children was taken by the Social Work Department was essentially the allegations of the three W children on 6th, 12th and 13th February 1991 given at their interviews. In the absence of any full record of what passed at those interviews it becomes difficult to comment upon the actings of the interviewers as bearing upon what came to be the basis for the removal of the children and one is left with the uncertainty regarding the standards of the interviewers' techniques which is inspired by a study of their performance on other occasions which are more adequately recorded. Uncertainty also arises in relation to the purpose for which it was conceived the interviews were being conducted.

13.14 But the inadequacy of the records and reports of these critical interviews is however itself a matter for serious criticism. Mrs Liz MacLean who was the interviewer engaged for the Orkney Social Work Department's interest provided no separate written account of the interviews for the Department. It was the Police representative who wrote a summary and that was the only written record which was available. The absence of any notes made by Mrs MacLean either during the interview or of specific points immediately thereafter reduced the likelihood of a fully comprehensive record being compiled. Mrs MacLean was left with no specific written material for debate with her supervisor reflecting matters for her consideration from the contact with the child. Mrs MacLean should have maintained some independent recordings of interviews and not relied solely on joint accounts compiled after discussion. In particular in relation to the critical interviews when the allegations of abuse were made if material of such apparent importance was being provided by the children and no other form of recording such as audio or video was available Mrs MacLean ought to have prepared her own record in the fullest detail which she could recall. There was some lack of clarity about the recording facilities which were being used.

13.15 In any event if as was indicated by Miss Janette Chisholm and by Mr Sam McTaggart it was evident about a week before 6th February that MW was going to make a disclosure of some kind steps should have been taken immediately to secure that as full a record as possible would be made preferably with at least audio recording. Equipment was installed quickly enough when the necessity was appreciated but it could have been put in hand earlier. Where the allegations have been made in the course of formal interview with a child then the fullest possible

record of that interview should be available. Ideally that should be in the form of video or at the very least audio recording. If these are not available then there is all the more need for the fullest possible written record to be prepared after the interview has taken place. The management of the agencies involved should have checked that recording facilities were in place.

13.16 Where there is no complete record then not only may the substance of the allegations become distorted in reporting but any critical assessment of the source material becomes difficult or impossible. Such distortion may well have occurred in the present case. The account conveyed over the telephone by Mrs Liz MacLean to Mrs Susan Millar on 13th February was one of penetrative abuse by all the adults of all the children. When Mrs MacLean addressed the social workers on 26th February the picture she conveyed was one where all the adults had abused all the children and the indication given of the kind of abuse was that it was penetrative. But while that appears to have been the understanding on the part of the social workers that was not the understanding which the Police had obtained from the information given to them. It is by no means clear from Constable Williamson's record of the interviews that all the adults had been engaged in abuse and it could indeed be questioned whether even if each of the children had been drawn into the circle each child had suffered such abuse. The absence of a full transcript of the critical interviews makes it impossible to ascertain with any certainty precisely what the W children had said or to assess the reliability of the account which they had given. At least it can be noticed that there was a significant inconsistency in the accounts given by the interviewers of the allegations of abuse.

(B) EVALUATION OF THE ALLEGATIONS

13.17 Mrs Susan Millar was not specifically appointed as the case manager to co-ordinate the work of those who were looking after the children. Indeed it is expressly a fundamental part of the submission made on her behalf that no such responsibility was delegated to her. But the failure to identify a case manager remains a matter for critical comment. Such management structure as there was continued to exist with the addition of Miss Janette Chisholm at the start of February 1991. The position was not reviewed or made more precise after the decision to take action regarding the nine children. As it is expressed in the submission made on behalf of Mr Lee 'What appears to have happened is that the hybrid management of the W case evolved to embrace the four families.' Thus the situation was left with Mrs MacLean looking to Mrs Susan Millar as the case manager and Mrs Millar in fact not appointed to such a role and looking to Mrs MacLean to carry out the work of interviewing under the supervision of the Society.

13.18 The evaluation of the allegations was inadequate and that inadequacy was contributed to by the absence of any clear understanding of who was to do it. Mrs Liz MacLean did not regard herself as the person responsible for evaluating or assessing the material. She did not see herself as looking at the whole child. She understood that she was simply studying one part of a large picture which was being studied by the case manager who would be collecting information from all sources and would be in a position to assess the whole situation. She was thus not concerned to assess or evaluate the material which she obtained. She took the allegations seriously and she believed that the children were telling the truth but she formed her view on her own restricted view of her meetings with the children. Mr Sam McTaggart who was Mrs MacLean's immediate superior relied on the interviewing staff for the accuracy of their work. He accepted the summaries of the interviews as accurate and forwarded them to the Orkney Social Work Department. He did not carry out any independent evaluation. Mrs Susan Millar however was in fact not carrying out the kind of broad study which Mrs MacLean envisaged. She relied upon Mrs MacLean's account of the critical interviews and upon Mrs MacLean's assessment of the credibility of the children. She relied in particular on what Mrs MacLean told her over the telephone and while she discussed the matter with Mr Lee and with the Police she had plainly arrived at a firm view on the credibility and reliability of the allegations of the three W

children in her discussions with Mrs MacLean. There was no clear system for any co-ordinated evaluation of the interviews.

13.19 The management of the Social Work Department and the senior officers of the Police were undoubtedly justified in taking seriously the allegations of the three W children. But the management of the Social Work Department appear to have moved almost immediately from that position to the decision to seek Place of Safety Orders. That transition ignored certain logical and procedural steps. Logically it did not follow that because the allegations had to be taken seriously they had to be believed but belief that there had been a Schedule 1 offence committed was one possible prerequisite for a Place of Safety Order. Furthermore even if there was a belief that the allegations were true it did not necessarily follow that a Place of Safety Order was appropriate in the circumstances. A number of intermediate procedural steps required to be considered. What seems to have happened was that the course of removing the children under Place of Safety Orders was conceived on 13th February and grew into a commitment without adequate consideration of other options. Once having set about the preparations for a removal of the children the Social Work Department gave insufficient thought to considering whether the course was the appropriate one.

13.20 The danger of ignoring a child's allegation of abuse has been recognised in the past and the response which was formulated in the Cleveland case was that such an allegation is to be listened to with care and to be taken seriously. It appeared from the evidence in the present Inquiry that that guidance has not always been understood. By some witnesses it was seen as equivalent to a belief that what the child said was true. Thus in assessing the evidence the search for alternative explanations for the allegations by the W children was seen as an exercise in discovering whether any sufficient alternative was strong enough to rebut the presumption that the allegations were true. The distinction between believing the child and taking seriously what the child has said was recognised by some of the witnesses but not consistently by all. Mrs Hughes certainly recognised that if a child spoke of abuse the statement must be taken seriously but at the same time in assessing it one had to keep an open mind. On the other hand the insistence of some of the RSSPCC staff at interviews that they believed the allegations which they had received at least gave the impression of minds already made up. The distinction is a real and fundamental one. To take the allegation seriously does not mean that it is necessarily to be believed. The allegation is not to be put lightly aside. That the person making the allegation is a child is not to be taken to detract from the attention to be paid to it. It is to be taken as seriously as an allegation made by an adult. But it still requires to be scrutinised, assessed and evaluated. It has to be approached with an open mind, to be taken and to be seen to be taken seriously, but not to be assumed at once to be true. Children who make allegations of having been abused seldom lie, but it has to be remembered their allegations may not always be true.

13.21 While that is the position with regard to the case where a child alleges abuse against himself still more care may be required where the only allegation of abuse comes from a third party. Where as in the present case the sources of the allegations were all children the allegations certainly had to be taken seriously. But in so far as those children were reporting an abuse suffered by others all the greater study of the situation was required in order to ascertain whether these allegations had a basis in fact or whether those other children were in any danger. The children whom the Social Work Department and the Police were proposing to remove in the present case were children who had made no complaint themselves of any abuse and it was only on the word of other children that the authorities were proceeding. The Social Work Department failed to give sufficient weight to the fact that the allegations did not come directly from the nine allegedly abused children.

13.22 While the Police appear to have made a reasonably careful study and analysis of the material which had come from the three W children the management of the Social Work Department appear practically to have made a decision in principle on the strength of the information which had been conveyed to them by telephone from Mrs Liz MacLean. While Mr Lee and Mrs Susan Millar saw

the summaries which the Police brought with them to the meeting on 14th February they did not see the drawings and they do not appear to have made any thorough exploration of the whole available evidence for themselves. No meeting was held with the interviewers who had received the allegations in order to question in detail how the allegations came to be made and the particulars of the actual statements. It does not appear that the more detailed analysis which was done by the Police was shared with the Social Work Department. No written report was obtained from Mrs MacLean and no detailed comparison appears to have been made between the accounts which she relayed over the telephone and the summaries which had been prepared by Constable Williamson. The Social Work Department failed to carry out any detailed analysis of the information passed to them.

13.23 The correspondence which had been sent for the W children during the period between November 1990 and February 1991 had caused unease on the part of the Social Work Department. While that unease played no critical part in the decision to remove the children it remained an element in the background of the thinking which reinforced their decision. As a result partly of the apparent opposition to the Social Work Department by some of those involved in the correspondence no thought had been given to the possibility of approaching the senders of the mail at the time to explore the position with them, and explain the anxieties which the Department held. Instead of making a frank and open approach to the adults concerned the staff kept their thoughts to themselves and nursed their growing suspicions. While there was a corresponding failure to approach the Social Work Department on the part of any of those corresponding with the children who felt themselves under suspicion, such as Mrs T, the Department erred in failing to investigate their suspicions about the mail.

13.24 It would undoubtedly have been prudent to have had special regard to the source from which the allegations had come. The management of the Social Work Department if not most of the members of its staff were well aware of the history of the W family and that those who had made the allegations had come from a family with a history of abuse which was likely to have affected their development. The possibility of a need for special attention to be paid to their overall development and sexual attitudes in the scrutiny of the allegations should have occurred to them. While it may well have been that the drawings were not such as to have required interpretation in order to understand their superficial meaning a professional assessment of the children by a psychologist or psychiatrist would have been a prudent course in order to help in an assessment of the strength and reliability of their allegations. It was certainly a matter for consideration whether their perception of reality had been in any way coloured or affected by the abusive experiences to which at least some members of the family had been subjected. What might have seemed real to them might well not accord with what was real to others. It was not impossible that innocent incidents could have taken on a sexual overtone in their imaginations and the unusual history and behaviour of the members of the family called for objective professional guidance in the understanding and assessment of the allegations which the three children had made. Mrs Susan Millar argued that abused children are no less reliable a source of evidence than children who have not been abused and she pointed to the example of OW as an abused child whose allegations had been established. But the fact that some allegations were substantiated did not warrant an automatic certificate of general credibility for all the W children about allegations of abuse of others outwith the family. Mrs Millar's assessment was influenced by her experience with the W children in November but the later allegations were of a different order.

13.25 While OW had been referred for psychiatric help no steps had been taken to follow up Dr Hamilton's suggestion that similar help might be considered for the younger children. Mr Sam McTaggart believed that no-one had any concern about their psychiatric condition nor indeed had any cause to have concern about it. He left the assessment for the need of such help to Mrs MacLean and the interviewers. Mrs MacLean however thought that others, and in particular Mrs Susan Millar, were looking at the whole child. It should have occurred as much

to the staff of the RSSPCC as to the management of the Social Work Department to seek such professional expertise. Such a course would not, as the Orkney Islands Council suggest in their final submission it might, usurp the statutory functions of the agencies, the hearing or the Court, but would have provided a check on the strength of the basis on which the Social Work Department was proposing to act. The evident maturity of sexual knowledge on the part of at least some of the W children might well have alerted the interviewers to the particular problems which might exist in the evaluation of what they said. In the Society's own statement of their procedures the expectation is expressed that specialised professional skill will be obtained when it is needed and Mr McTaggart recognised that that was a basic statement of principle. Presumably the advice was not sought because the Society did not see that it was needed. That was one unfortunate consequence of the approach which they adopted to the interviews with the W children. By failing initially to make or obtain a full assessment of the children's emotional and social development they failed to recognise the necessity for an objective assessment of what the children eventually came to allege. Even when the allegations came neither they nor the Social Work Department gave serious thought to obtaining further professional advice. The thought of a psychologist's advice aired by D.C.I. Gough at least in relation to the drawings was left unresolved.

13.26 It is no sufficient answer to the criticism of the failure to obtain an outside opinion on the allegations that the Acting Reporter would provide such a further assessment or that the final decision lay with the Sheriff. The Acting Reporter was not in fact brought into the picture until after the removal and in any event his only opportunity for assessment of the evidence for Place of Safety Orders is in his power to secure the immediate return of the children after their removal. The Sheriff's assessment depends wholly on the presentation of the material to him and there is no reason to be confident in the present case that the material was clearly or carefully laid before him so that the potential weaknesses were as evident as the apparent strengths. In the absence of any sufficient check on their assessment there was all the greater obligation on the Social Work Department to make a thorough study of the material and of the children who had produced it and seek further professional advice.

13.27 It would have been in accordance with existing principles even in the absence of specific guidelines to have enlarged the discussion at the earliest stage so as to draw in the advice and assistance of all other available agencies. Effective Intervention points to the desirability of holding case conferences at an early stage (paragraphs 3.20 and 4.10). Here however the decision was taken in reliance on others without a careful scrutiny and evaluation of all the material and without a consideration of the whole situation. The complexities of the particular case were such as to call for a pre-investigative case discussion in order that all information that could be made available could be pooled and a joint assessment made of the whole situation and in particular of the need for intervention. It is not of importance whether such a gathering is given the label of a case conference, but the gathering of separate minds and a mutual discussion of the matter provides the advantage of an initial safeguard against intemperate or premature action. Furthermore as investigations proceeded it would have been a valuable check on the situation for such meetings to be progressed in line with the investigations to review the situation and to confirm or to reverse the views and opinions originally held about the matter. As it was little if any use was made even of the knowledge or experience of the field workers in assessing the situation. Mrs Julie Lee for one could well have made a significant contribution in discussion from the background of her experience in child protection work but no occasion was given for her to make such a contribution and being very much a new arrival she was hesitant to come forward on her own initiative. A multi-disciplinary assessment of the W children would have been a prudent approach to consider their stage of development and the nature of the allegations made. It has been submitted on behalf of Mr Lee that it is 'inconceivable' that a multi-disciplinary group would have decided otherwise than to seek Place of Safety Orders. But it is hard to believe that if the whole matter

had been reviewed coolly and objectively a less precipitate course might not have been adopted.

13.28 It was of course important from the Police point of view that the matter should have remained secret but that should not have prevented a discussion being held at least with those whose confidentiality could be trusted. It was in the interests of both the Police and the Social Work Department whether concerned with criminal prosecution or child protection to be sure first of the basis on which they were going to act and each of them should have widened the discussion to explore both the reliability of the material which they had and the course which should be pursued. As it was the Police came to the meeting on 14th February concerned to secure secrecy and to formulate a joint approach. The discussion covered matters of the gathering of evidence rather than the whole problem and moved to the logistics of the removal as a joint operation with inadequate thought about alternative course of action or indeed whether the children should be removed at all.

13.29 Mrs Susan Millar sought to justify the failure to hold a case conference on the grounds that the situation called for urgent action and claimed that at least before 26th February 1991 a conference was inappropriate because the decision to take Place of Safety Orders was evolving and the Police required the matter to be kept confidential. She accepted that such persons as the schoolteachers and the health visitor could respect the required confidentiality but she indicated that the holding of a conference was a matter for the Director. She stated that it would have been a usual course to hold a conference but this was an unusual case and having gone south to the mainland she had not been in Orkney to press for it. Given the degree of finality which had already been reached on 14th February and the period of almost two weeks which was necessary for the making of the arrangements for the removal of the children there was ample opportunity to hold a conference of all the key interested parties whose ability to preserve secrecy could be trusted.

13.30 There had been some discussion between some of the agencies involved in the matter. But individual communication between agencies is no adequate substitute for a general pooling of the thinking of the parties involved and in the circumstances of the present case it might have been that if a gathering of all the agencies had been arranged some time prior to the proposed removal the range of matters raised by those who came from Strathclyde Region might have been earlier resolved and a reappraisal undertaken of the action required. As it was in the absence of a specified manager of the case and with no adequate inter-agency discussion the major decision was taken as a matter of almost instant reaction as if those taking it were acting under a sense of panic rather than with a measured consideration.

13.31 Furthermore in a matter of this importance it was plainly inadvisable for the Social Work Department to have proceeded in complete reliance upon the written or oral accounts by two interviewers to whom the allegations had been made. Having contracted with the RSSPCC to undertake the interviewing work it was difficult for the Social Work Department to question in any way the expertise or skill of Mrs MacLean or her methodology. They were trusting her to carry out the interviews in a proper manner. Mrs Susan Millar never stopped to question the technical competence nor the experience of Mrs Liz MacLean. But while there was no need to explore her experience or sincerity the methodology which she employed was something which required examination. It would have been appropriate to have explored fully the validity of the approach which she adopted and the consequent reliability of the material which had been passed to her by the children. This was all the more desirable where there was at least some ambiguity about the object of the interviews. Mrs Millar evidently believed that there were more detailed reports and possibly transcripts available. She had nothing beyond the verbal account given over the telephone by Mrs MacLean and in the absence of any written record from her it would have been advisable to have sought advice from a consultant with experience of child sexual abuse to assess the whole undertaking with Mr Lee and Mrs Susan Millar neither of whom had extensive experience of this field of work. They could thereby have sought some objective

view on the reliability of the critical source on which the whole enterprise depended and on which the critical decision had been made. It would at the very least have been desirable to have had the summaries brought to the Department and to have had a full discussion of the written summaries with the interviewers.

13.32 The decision to remove the children does not appear to have proceeded upon any careful analysis of the precise grounds on which Place of Safety Orders might be sought. Presumably it was thought to relate to the commission of a Schedule 1 offence. The understanding appears to have been that all the children had been sexually abused. The failure to identify precisely the grounds on which the orders were being sought remained however and even on 26th February when Mrs Susan Millar appeared before the Sheriff the presentation does not appear to have detailed upon the individual grounds on which the order was sought in respect of each particular child. If that had been done it is difficult to believe that the particular basis adduced for taking action against the H children would not have been identified.

13.33 While the decision to seek Place of Safety Orders was critically that of the Social Work Department and not that of the Police, the Police co-operated with and endorsed the decision. They had of course their own statutory duties under Section 17(1) of the Police (Scotland) Act with a view to bringing offenders to justice but along with that they became involved in the actions which formed the immediate subject of the Inquiry. While they did not make a very positive contribution to the making of a decision one way or the other on 14th February they certainly went along with it. While they made a more careful study of the material than the Social Work Department they can be correspondingly criticised for not appreciating the quality of the source from which the evidence for action came and not requiring a more thorough investigation of the reliability of that source before acting upon it. While the popular criticism was directed at the Social Work Department much of that criticism can be equally directed at the Police. The Orkney Islands Council submitted that if the Police were not criticised for treating the allegations by the W children as worthy of belief the Social Work Department officials should not be criticised for reaching and acting upon the same conclusions. The converse however holds, that if the social work officials deserve criticism so also must the Police accept some of that criticism.

(C) EVALUATION OF THE RISK

13.34 Not only did the management fail adequately to assess the material which they had but even on the basis that they believed that the allegations were true they failed to give proper consideration to an assessment of the risk to which the nine children might be exposed. The grounds for supposing that any repetition of the alleged abuse was about to occur were matters of speculation. Certainly it could not be seriously contemplated that any immediate action was necessary for the safety of the children. It was recognised that although the point is not specifically detailed in the primary legislation Place of Safety Orders are appropriate where there is a situation of emergency. The reason for the absence of any immediate enforcement in the present case was that time was needed to find the necessary placements and make the necessary preparations. But the question remained whether there was any urgency even on 27th February 1991. The argument presented was that since the abuse alleged by the three W children was said to have occurred on about 5th November 1990 immediately after OW had been taken into care the abusers must be of a determined set of mind and so would be continuing on a course of abuse even after the younger W children had been taken into care. But on the other hand there was no evidence whatsoever of any continuing activity and the removal of the W children might well have had some effect on the extent of any organised abuse. That the alleged abuse was continuing indoors in some place less exposed than the locus of the alleged incident was a matter of speculation. The general perception as Sergeant Hanson saw it was of an urgency to take action but not a necessity to take urgent action. Action can become urgent when adults are alerted to the possibility of investigation. Contrary to what might be expected investigation has been found by no means always to deter abuse and in principle the argument which was presented has some validity.

However in the circumstances of the present case there was no sufficient ground for supposing that such a risk would exist.

13.35 Granted that the allegations had to be taken seriously and accepting the level of risk which the Social Work Department and the Police believed there to be it did not follow that Place of Safety Orders were the appropriate course. But no thought appears to have been given as to any alternative course of action. One essential course should have been the more detailed assessment and evaluation of material to which reference has already been made. But in addition to that in accordance with the joint approach it would have been proper to have attempted some further investigation of the local situation with a view to seeing whether any material was forthcoming against which the strength or otherwise of the allegations might be tested. No doubt this was principally a matter for the Police rather than the Social Work Department and some investigations were made but it does not appear that this was done with close consultation with the Social Work Department. The whole matter of course required to be kept secret but some further enquiry should have been possible even if only through official channels without incurring too great a risk of breaching secrecy. The Social Work Department had no sufficient information about the social background of any of the four families. As Mrs Kirkland argued in her written submission discreet inquiries could have been made in the parish. Something more informative and detailed than the pen pictures should have been able to be obtained through the schools attended by the children. The information which was obtained and embodied in the pen portraits was not obtained with a view to discovering evidence of abuse. Sometimes the experience of abuse will be reflected in the behaviour or the level of achievement of a child at school and discreet enquiry might well have yielded information one way or another on the facts of the situation in that regard. The Social Work Department failed to consider whether any more appropriate action than immediate removal of the children existed.

13.36 The proper course then was for there to have been a thorough discussion between the management of the Social Work Department and the authorities concerned with any possible criminal proceedings in order to explore the situation with a view to satisfying their respective interests. The Inquiry was not concerned with any investigations made by the Police which related purely to possible criminal proceedings and which were not shared with the Social Work Department so as to influence their thinking but presumably anything bearing on the need to remove any of the nine children would have been shared with them. It was said that surveillance would be impractical but some enquiries could have been made of discreet parties. Further enquiries could have been pursued through the school authorities. The situation could have been kept under review and every opportunity taken to see if there was anything to substantiate the allegations made by the W children. Those allegations and the drawings which had been made by the children could also have been subjected to expert assessment. Further interviews of those children could have been followed through with an expert appraisal to check and monitor the views and reactions of those immediately concerned with the interview process. If it was impractical in the circumstances to make the enquiries which might otherwise have been made there was all the greater need to be sure of the reliability of the base information before acting.

13.37 In the event, accordingly, no sufficient time was set aside to explore the problem objectively and to consider what possible courses might be open and what action should be preferred. The course which they embarked upon was one which as they could expect was potentially damaging to a considerable number of people, particularly if the action was misplaced. They had to consider the risk of criticism by the community both if they did nothing where there was abuse occurring and if they took action when there was no abuse. The risk of repetition of the alleged abuse was clearly not so immediate as to prevent the Department from having time to think more carefully about the situation. There was time enough to seek objective advice on the whole position, particularly in a situation where the allegations came, not from the alleged victims whom they were concerned to protect, but from other children and where the Department had minimal knowledge of the families. In the somewhat peculiar circumstances of the case

and under the pressure of the various factors mentioned in the preceding paragraph a course of action was embarked upon which was ill considered and which was a consequence of too rapid a reaction to the news conveyed by Mrs MacLean over the telephone. Once they had embarked upon that course they proceeded with determination to follow it through to the end. At no stage did they stop to question or to review the course on which they were engaged. Those around them were not so equipped or so placed as to provide an objective check on the propriety of the action. The absence of a manager appointed to the case added to the difficulty. The commitment of the Police to take action with regard to the adults coincided with the determination of the management of the Social Work Department to take decisive action so that the joint approach served to confirm rather than to check and question their respective perceptions of the need to act at an early date. Only at the final stage did the opportunity come for an objective view to be raised and that was when the workers from Strathclyde arrived in Orkney. But, by that stage, it was too late seriously to consider any turning back. The Social Work Department acted too hastily in determining to remove the children and failed to take time to pause and think before embarking on precipitate action.

13.38 Having fastened upon the idea of a case of organised abuse the management of the Social Work Department tended to see the case as a single case or at best as four cases relating to the four families. What they did not do was to obtain, analyse and study all the information which they could find about each individual child and in that respect failed to treat each child as an individual. This approach was reflected in the continuation during the period of preparation of a single file in the Department's records to include all the papers relating to the nine children. Only later were separate files for each family unit opened. The thinking which was thus reflected in the formal treatment of the papers easily obscured any conscious realisation of the fact that nine separate individual children were involved in the proposed action. The whole enterprise was seen as a single action linked with members of the W family or even others and the whole seen as one case. The Social Work Department in this respect failed to treat each child as an individual.

13.39 The matter arises more sharply in relation to the application to the Sheriff. No reference was made in the written applications for the Place of Safety Orders to the particular ground or grounds on which the application was founded. The Sheriff was not directed to the particular grounds and while in evidence it appeared that the Social Work Department intended to proceed on grounds (a), (b), (c) and (e) of Section 37(2) of the Act it was not explained to the Sheriff whether these were cumulative or alternative or whether any distinction fell to be made between different children. While Mrs Susan Millar looked to the Sheriff's determination as the confirmation of the propriety of the action the presentation which was made to the Sheriff was not such as to focus the issues for him or enable him to give a decision which recognised the precise legal basis for the action taken in respect of each child. Mrs Millar failed to set out the position as it applied to each individual child before the Sheriff.

13.40 While Mr Lee was obliged owing to the dearth of placements in Orkney to send the children to the mainland the added distress which such an operation was bound to involve should have caused the management to think again about the absolute necessity for the removal. Moreover the considerations involved in the course, both as regards expense and as regards the administrative complexities in the removal and in the later care of the children should have made the Department pause to be sure that the course was warranted. But the fact that the removal necessitated taking the children off the island does not appear to have weighed significantly in the decision. The operation was one of considerable labour and expense and likely to cause distress and public outcry. But as if the pattern set by the removal of the W children had to be followed the decision was made and action followed upon it without any doubt expressed or question raised.

13.41 After the results of the medical examinations had become known there was clearly a need to assess the whole evidence. The initial account given to the Social Work Department had been that all the children had suffered penetrative sexual abuse by all the adults. Without resorting to the various statistical probabilities of there being physical signs on children as a result of sexual abuse dependent

on their age and sex and the period since the incident the fact that in none of the nine children was any significant sign found ought to have raised a very serious doubt in the minds both of the Reporter and the Social Work Department particularly if account was also taken of the medical evidence relating to the W children. Certainly Mr Philip Greene became anxious when he heard of the results of the medical examinations of the four children in Glasgow. When the clear record of the five other children in Highland became known a serious reappraisal of the case was required. But in Orkney no such reappraisal was made and the Acting Reporter successfully opposed any attention being paid to the medical examinations before the hearings. The Social Work Department should have consulted with the Police and the Acting Reporter in light of the absence of any charges or arrests being made and in light of the medical examinations to ensure a reassessment of the position.

13.42 It would be too simple a conclusion to hold that the taking out of the Place of Safety Orders and the removal of the nine children came about by a mistake committed by any one or more of the persons who were promoting the operation. Mrs Susan Millar's dominant personality was felt to discourage any questioning by those who might, if they had been given the opportunity, have counselled caution or even raised a doubt regarding the basis for action. Mr Lee tended to be carried along by the view that the evidence required the removal of the children and failed to take full control of the situation, to voice caution and require a more thorough investigation and to make sure of the solidity of the ground on which they were proceeding. But the decision to remove the children appears to have come about as a result of a combination of factors which so operated in the circumstances which prevailed as to make the conclusion almost inevitable. In the first place the Department which was required to face the problem was a very small one and lacked the expertise to recognise or deal with the full complexity of the situation which faced it. The level of expertise needed in cases of such complexity is high and unlikely to be found in more than a relatively few members of staff even in large authorities. There was no one available within the few members of the Orkney staff to look at the matter objectively or to make a challenge to the views which were taken. The problem called for a sophisticated and objective appraisal but there was no one able to fulfil that task in the Department. Mrs Julie Lee plainly had some uncertainty about the decision but, unfortunately, she felt it inappropriate having only recently joined the Department to voice her doubt. Nor did the senior Police officers so far challenge the interviewers' beliefs as to introduce a note of caution into the joint operation. In the second place, the Department were relying on the RSSPCC whom they had engaged to carry out the interview work. They respected and had confidence in the persons who were engaged upon it. In such circumstances it was only to be expected that they would be inclined to go along with the views expressed by the persons whom they had engaged. It became hard for the Department to challenge or to think of challenging the material presented by Mrs MacLean or her view of it. In the third place, it was felt that it was impossible to make effective investigations in the area where the abuse was alleged to have been committed. It was understood that nearly all the parents might be involved. It was known that the local General Practitioner had had some involvement when SW was harboured in the community and it was considered inappropriate to seek advice from him. The Minister had been named in the allegations and, accordingly, he could not be safely approached. While the Police did succeed in making some investigations with due discretion from the social work point of view it was not considered that any useful check on the validity of the allegations could be made by any local investigation. In the fourth place, the experience which the Department had had in connection with the W children who were in care had created in the managers some concern which predisposed their minds in such a way as to give added conviction in the reliability of the allegations when they came to light. The participation of the minister and his wife and of certain of the parents of the four families in the correspondence which had been sent to certain of the W children who were in care together with the knowledge which the Department had of the support which the T family and M family had given to Mrs W took on a particular significance

when the contents of the allegations became known and readily seemed to add credibility to them. In the fifth place, and related to that, the management of the Social Work Department cannot but have been conscious of the apparent hostility which those who were supporting Mrs W showed towards the Department. That hostility from the Department's point of view must have seemed not only profound but unjustified. It thus became the more difficult for them to form an entirely objective and balanced reaction to the allegations when they came. Finally, both of the two senior members of the Department were at the critical period working under very considerable pressure. Both had been subjected to a very substantial workload. Mrs Millar was faced with the choice of whether she should continue in the Department following upon her letter of resignation and she had also suffered the death of a close relative. Surrounded by professional and domestic distress Mrs Millar responded to the situation with a precipitate and unthinking reaction not far removed from panic. Although she claimed that her decision making power was not affected as she herself said when the news broke she went into automatic pilot. Unfortunately this was one case where deliberation was called for and not any automatic response and in any event in the peculiar circumstances of the case there was no appropriate programme for such a pilot to follow. Subjected as they both were to these various strains and stresses it was only to be expected that both Mr Lee and Mrs Millar would be less than fully effective in managing the problem with clarity and careful consideration. Even if the allegations by the W children required to be taken seriously the management of the Social Work Department was not justified in moving to the course of removing the children without further consideration of the material, the exploration of alternatives and further investigation. If they had stopped to consider the situation and investigated further it is improbable that they would have at that stage removed the nine children.

III. The Preparation for the Removal

13.43 While there is much to be criticised from the early handling of the case it should be recognised that having decided on the course of removing the children the management of the Social Work Department proceeded with sensitive and practical planning with a view to minimising the traumatic effect of that step on the children. They gave careful consideration to the time of the uplift with a view to seeing that the children arrived at their placements in daylight and that their parents were present at the time of the uplift. The only criticism that can reasonably be made there is that further enquiry could have further refined the precise timing of the uplift so as to avoid the children being still in bed when the workers came. Thought was also given at an early stage to provision of safe places for the children to wait pending their departure from the island and for the provision of accommodation and food and activities for them there.

13.44 It might be questioned whether the Social Work Department fully realised the enormity of the task which they undertook in February 1991. It was an enterprise which as Mr Philip Greene recognised would have stretched local resources in Strathclyde. It was an enterprise of a stressful character demanding considerable resource, far beyond what the tiny Department in Orkney could manage. It called for a far higher level of management expertise than the current management appreciated. Mr Lee and Mrs Susan Millar found themselves in an impossible situation, without adequate local resources, without local guidance and yet sincerely believing that they were obliged to take urgent action. In the whole circumstances it is surprising that given what they felt they had to do matters went as well as they did.

13.45 It was obvious good sense for Mr Lee to canvass his fellow Directors throughout Scotland for assistance but it was unfortunate that in the haste to carry out the operation more thought was not given to the framing of the precise requirements expected of the incoming staff. The terms of the fax message invited a level of expertise which was unnecessary for the limited task of assisting in the physical removal of the children. Further the reference to the involvement in initial interviews could readily be understood as promising active participation by the

incoming skilled workers in the interviewing of the children. The misleading terms of the request raised false expectations among the mainland workers and was one cause of the subsequent problems which arose with them. This reflected the lack of clear thinking.

13.46 While it was useful for one of the senior staff from Orkney to go to the mainland and meet the incoming workers the meeting on 21st February failed to achieve the understanding and cooperation which was essential for the smooth running of the operation. To a significant extent this was due to an inadequacy on the part of Mrs Susan Millar in clear communication. For example her indication that the adults would be arrested and not simply detained gave the Strathclyde workers a false impression of the strength of the Police view of the case. Again her indication that further information would be made available was a point which was of much greater significance for her hearers than she appreciated at the time. She believed at that stage that more information would be available in the following week but the Strathclyde workers understood that this would include more information about the actual allegations. On the other hand the workers in Strathclyde were already approaching the matter with a degree of critical doubt and suspicion.

13.47 Furthermore Mr Ian Gilmour did not appreciate the complexities likely to arise in the operation. During the period at which he was present at the meeting such matters as that of the medical examinations and the follow-up visits to the placements had been agreed but after that he departed and Mr Philip Greene was left to deal with a multiplicity of unanswered details some of which remained unresolved. Mr Gilmour was not advised of any difficulties which had arisen after his departure. Mrs Susan Millar failed to be sufficiently specific in the answers which she gave. She had no papers with her and had had no detailed discussion with Mr Lee about what she should tell the workers. When she left Glasgow the group of workers remained uneasy and anxious and far from confident about the situation in which their assistance had been requested. Only at the debriefing meeting did the mainland workers come to understand how the fear of contamination had restrained the disclosure of information. Had a minute been made and kept of the meeting of 21st February that would have clarified the minds of those who were engaged in the operation. While the operation was one surrounded by considerable secrecy that was no sufficient ground for not having a proper written record of what passed at the meeting made and preserved. A minute should have been taken of the meeting in Glasgow on 21st February.

13.48 Furthermore it would have been of assistance both at the initial stage and later to have had some written record of the understanding of the parties on the precise nature of the services which Orkney required from the workers from Strathclyde. While the situation did not necessarily call for some formal contract at least an exchange of letters setting out the extent and nature of the work required of the workers from Strathclyde would have added a welcome clarity to the position from the outset.

13.49 Mrs Susan Millar was faced with a formidable task which it was beyond her capacity to carry out in the absence of any strong support, guidance or control. Her relationships within the Social Work Department were clearly not of the closest or most sympathetic and her naturally somewhat abrupt manner together with her attempt to provide supervision in a Department which had long existed without much central organisation or control were not such as would easily endear her to the staff. Whether intended or not her brisk presentation appeared to lack warmth. She appeared as an authoritarian figure who discouraged questioning from the staff. Her insistence that management must manage deterred Mrs Michelle Miller and Miss Lynn Drever from questioning the instructions which were given between the 14th and 26th of February. Coupled with this was a certain inability on Mrs Susan Millar's part clearly to express her intentions. Thus what she believed had been clear instructions were not fully understood by those with whom she was endeavouring to communicate. Her presentation and her anxiety when brought to bear on the experienced workers of Strathclyde provided a recipe for confusion and antagonism. In a small department the personal characteristics of a worker especially at management level have a much greater effect than is the case in a large organisation.

13.50 The preparations went ahead within the Social Work Department with no clear direction, control or organisation. Many of the difficulties already noted could have been lessened had a case manager been specifically appointed to take over control of the whole matter. The situation was made no easier by the uncertain scope of Mrs Susan Millar's responsibilities. The matter of the nine children required a planned deployment of responsibilities and that was not completely achieved. Mr Lee looked to the matter of the placements. Mrs Millar went off to the mainland to contact the extra staff whom she met and spoke to on 20th and 21st February. Thereafter she remained on the mainland until 25th February in the belief that Mr Lee and the other members of staff would be looking after the continued preparations in Orkney. Having for the time being foregone her resignation it seems surprising that she did not return north earlier to assist in the preparation of what was a major operation for a tiny Department. Planning suffered in the absence of any firm directed management. Mr Sam McTaggart's presence provided some assistance and useful initiatives were taken by members of the staff with apparently little guidance. Precisely what was to be done in the preparation and who was to do it does not appear to have been planned in detail and as there was no distinct filing system and no written records were kept of any instructions or indeed of what was done it is the more difficult to discern any organisation or control.

13.51 Where a Place of Safety Order is enforced in a situation of emergency there may well be little known of the child in question and little known of the placement. But in the present case almost a fortnight elapsed between the decision to remove the children and their removal. In such a case it is desirable in the interests of the child to endeavour to have some knowledge about the child which can be supplied to his or her future carer and some knowledge of the placement which can be given to the child in advance of the child's arrival. The desirability of this was recognised but inadequate care was given to its achievement. It was a good idea to have obtained some information about the children from the school staff, but it was unfortunate that some of it was outdated or inaccurate so that the eventual recipients obtained a false picture or as in the case of TH formed a false impression of how she had improved since she left home. However more information could have been obtained from the health and education authorities and more information could have been shared with the Police. The lack of knowledge about the placements may have been due to the difficulty in finding placements but even although Geilsland School was only identified on 26th February information was available that evening in the Social Work Department having been faxed from Strathclyde. Information was also faxed regarding the Strathclyde foster placements. Inadequate care however was taken to secure that these details were passed to the people who would be accompanying the particular children so that they could tell those children about the future placements. Nor was information available about the Highland foster placements for the benefit of the children going there.

13.52 One important area with which contact should have been kept was the continued interviewing of the W children. On 21st February AW gave an indication to the interviewers that her key worker had knowledge of what the other W children had been saying in interview. That, if it was true, opened an alarming possibility of a channel of communication among the W children which might have been highly relevant to the evaluation of their allegations. But while the matter was referred to a superior officer on the Police side nothing seems to have been done by them or by the Social Work Department. In any event no investigation was immediately made of the key worker to ascertain the reality or otherwise of this possible link between the W children. Again the interview with BW on 23rd February produced some material relating to the H family but it is far from certain whether or when and to whom any report of that interview was made. While it appears likely that Mr Sam McTaggart told Mr Lee about it in a telephone call the absence of written records reflect the absence of any certain system for communication as well as rendering it difficult to reconstruct the historical events.

13.53 While much thought was given to the managing of the removal of the children there was less given to the planning and preparation of the arrangements for the children after they were removed. While the Social Work Department entrusted the arrangements to others they did not keep a firm check and control on the steps which were being taken. The workers engaged in the removal would have been able to give better support to the children if they had had a clear understanding of what was going to happen to them on the mainland but they were not sufficiently informed to do that even although some information had been made available from Strathclyde. Nor had the planning been so progressed as to enable information to be given about their schooling. The carrying out of the medical examinations had been considered and the planning had been left to Mr Philip Greene in Strathclyde and to the Police in Highland. No-one in the Social Work Department appears to have checked and confirmed precisely what the arrangements were and in the event questions arose in relation to each area. The Social Work Department did not adequately plan the arrangements for the children after the stage of removal.

13.54 One area which was overlooked was that of the support of the parents. Mrs Susan Millar left this matter to Mr Lee during her absence from Orkney but it appears that no-one thought to attend to it. It is possible that one consideration here was the mistaken belief that the parents would be arrested and that their support at home would not be required. But even if that was correct no contingency plan was made against the event of no arrests being made. There was no clear understanding of what the Social Work Department were going to do so far as the parents were concerned and the matter was left to drift. Again it may not be too fanciful to see the pattern of the W case repeated here. Relationships with Mrs W had been such that there was little prospect of useful support being provided by the Social Work Department in her case. No thought was given to the possibility that the parents of the nine children might be in a different situation. Despite the likelihood of opposition and even hostility, planning should have taken place for an early and direct contact with the parents of the nine children.

IV. The Joint Approach

13.55 While the Northern Constabulary had drawn up formal arrangements for the joint investigation of child abuse in 1989 which extended to Orkney so as to bind the Police working there, the Orkney Islands Council while aware of those arrangements had no corresponding provision binding the staff of the Social Work Department although the Police protocol purported to put obligations on the social workers. It would have been preferable for the Orkney Social Work Department to have had their own guidelines compatible with those of the Police. The decision on a joint approach which was envisaged by the Force Order was made in the present case, it being understood at the meeting on 14th February that a joint investigation was to be made. But that having been decided in principle it does not appear to have been followed up in active investigation with the possible exception of the conduct of the interviews. Even there the liaison was not fully worked out beforehand. While the Police interviewers met with the RSSPCC interviewers before the interviews began there was no clear planning or understanding of the methods to be used or the objects to be achieved. There was inadequate co-operation between the Social Work Department and the Police throughout the whole operation.

13.56 While the operation which was originated on 14th February 1991 was said to have been a joint operation between the Police and the Social Work Department and in terms of the Force Order the agencies should work together throughout the investigation there was little in the way of detailed joint planning. While contact was evidently maintained between the management of the Social Work Department and the Police and while the working relationship between them was perfectly good there was something short of a full exchange of views. Thus it was not evident until a late stage to the Social Work Department that the Police were not intending to detain Mr and Mrs H. D.C.I. Gough considered that by the 26th of February Place of Safety Orders were necessary for the three other families but

while the Police co-operated with the removal of the H children the position of the H family had not been a matter of detailed discussion between the agencies. On the other hand the Social Work Department do not seem to have shared with the Police their understanding about the position of Mr B. What was described as a joint briefing on the evening of 26th February was very largely a Police briefing and while a detailed operational brief had been prepared for the benefit of the Police officers no corresponding brief had been prepared for the social workers and it does not appear that the Social Work Department was consulted on the form or content of the brief which was issued on the 26th February at the joint meeting. Again some written record of the joint understanding would have been useful and might have avoided the confusion which arose about whether the Police were going to arrest the parents or merely detain them. The significance of the distinction should have been clear to Mrs Susan Millar but her misunderstanding of it led to particular concerns on the part of the mainland workers. There was inadequate mutual understanding and sharing of information between the Police and the Social Work Department.

13.57 Another aspect of the joint working which failed to be fully worked out was that of secrecy. C.I. Ratter wanted only the four persons present at the meeting on 14th February to know about the allegations of abuse. That was wholly impractical for the organisation of the Place of Safety Order but that problem was evidently not discussed between the Social Work Department and the Police. The field workers in the Social Work Department had already been alerted to the situation and after the meeting the summaries were available for them to see. Indeed they were in an open file so that little regard was paid to secrecy within the office. Moreover Mr Lee quite properly informed some of the senior members of the local administration. While in the event a high level of secrecy was preserved if it had been intended to keep the matter secret so far as was practicable parties should have agreed the precise limits on the persons who might be informed.

V. The Mainland Workers

13.58 There were a number of unusual problems in the situation which faced the social workers imported from regions on the mainland. They were not working under the guidelines with which they were familiar. They had had no prior involvement in the case and were to have no part in it after the removal of the children. Again not working under their own management they had some uncertainty as to the extent to which they could use their own professional judgement. In the present case there was an unusual combination of the various authorities and agencies involved. Furthermore where strangers are brought in to co-operate in a joint operation their questions can easily be taken as criticisms and the absence of familiarity between the workers and of trust and comradeship can give rise to mutual mistrust and suspicion. Overall there were jealousies and suspicions on both sides leading to tensions and an uneasy relationship. Full co-operation between the management in Orkney and the incoming workers became impossible. The absence of trust led to a questioning of every decision even although in most of them there was no issue of principle involved. For their part the mainland workers failed to recognise these dangers, failed to anticipate their occurrence and failed to overcome them when they became real. Had a suitably skilled external consultant been available to Orkney Islands Council the likelihood of such tensions and rivalries arising would have been anticipated and a strategy for their management and disposal could have been worked out.

13.59 The problem which arose with the mainland workers might well have been more thoroughly anticipated by their management and more thoughtfully provided for. It should have been evident to Mr Ian Gilmour that the work which they were to carry out was more restricted than their usual role and if he had appreciated that the members of the Strathclyde staff both workers and management who were going to Orkney possessed higher levels of skill than in the event was to be required he could have warned of the difficulties which would arise and advise how they might be handled. As it was even the management of the team

was left obscure and that did not help their morale. The achievement of co-operation between separate agencies even of the same profession can readily give rise to tensions and in the particular circumstances of the present case the stressful nature of the work and the combination of representatives of the largest social work department in Scotland with one of the smallest might readily have been foreseen to raise problems of working relationships. Unfortunately Mr Gilmour left the meeting on 21st February before many of the areas of anxiety began to appear and while there were storable reasons for it no minutes were kept. He was no doubt rightly confident in the high level of skill of those whom he was sending to Orkney but what he did not appear to have appreciated was the potential for conflict which could arise between persons of that calibre and their colleagues in Orkney who for the most part lacked that level of specialised expertise. In the written submission made on behalf of the Strathclyde workers it is recognised belatedly that 'difficulties may arise where differing social work philosophies and practices come together'. That truth should have been appreciated earlier.

13.60 One cause of the dissatisfaction of the mainland workers was the failure in adequate explanation and appreciation of the role which they were to play. The initial cause of the dissatisfaction can be traced to the terms of Mr Lee's fax of 14th February which set up an expectation of the level of expertise that was required and that prompted Mr Ian Gilmour to select workers of considerable specialised skill. Mrs Susan Millar endeavoured on 21st February to explain to the workers what their role was to be but even although they accepted the secondment recognising the proposed limits of the work they did not fully appreciate at the outset that full advantage was not being taken of the level of skill which they possessed. The information came to them piecemeal and there was no full discussion. In retrospect as Mr Sandy Fraser recognised they should have discussed with the Orkney management what service they could provide and how it should best be used. He felt that Orkney should have asked for experts in Reception into Care and not experts in child sexual abuse. In the event the experience of the mainland workers was under-utilised. The realisation of that on their part however found its expression in a temperamental reaction which they kept half-hidden among themselves until it burst to the surface at the eleventh hour on the night of 26th February. Their own skill and experience could not unreasonably be regarded as superior to that which they found in the Island Department and they were readily encouraged to find points of criticism where on a more objective and reasonable appraisal no real problem existed. A greater degree of openness and understanding on their part might have eased the relationship and avoided the crisis which developed. In the event however it was left to smoulder and develop and created a bitterness and hostility which came to be reflected in the extreme statements reached at the debriefing meeting of the Strathclyde workers after their return home which in retrospect were found not to be serious or supportable criticisms of the Orkney management or the conduct of the operation. The lack of objective judgement in their review of the operation and their possible desertion which was indicated only hours before the operation was to begin reflected poorly on the standards of their own Region.

13.61 In particular even if all the difficulties could not have been fully anticipated it was desirable to have established a clear leadership within the group of workers which was being sent from Strathclyde. This would have assisted their own morale as well as providing a clear communication link with the Orkney management. In the event the leadership was left unclear and unresolved.

13.62 One element which did remain throughout as a serious consideration in the minds of the mainland workers was an unease about the sufficiency of the grounds for the whole operation. That unease was felt at the meeting on 21st February and led to the meeting on the 24th February. But the expectation had been set by Mrs Susan Millar on the 21st of further information to come. The continuing hope was that when they reached Orkney they would be so briefed as to remove the anxiety they had. But as the time progressed after their arrival the justification which they sought was not forthcoming. The responsibility for this lay partly on themselves for failing to be more open and forthcoming. If they had expressed their anxieties and doubts fully and frankly at the earliest

opportunity a more open discussion might have cleared the air for the benefit of all those engaged in the operation. But the greater responsibility lay with the management of the Social Work Department in Orkney for failing to be more open with the mainland workers and failing to organise an adequate meeting on their arrival. No clear plan existed for their briefing. Even the explanatory address by Mrs MacLean was set up at the last minute and was ended somewhat abruptly by Mrs Susan Millar. Nothing was arranged for the day of their arrival, not even an opportunity to meet with the local staff. All this merely inflamed the smouldering anxieties of the visitors and invited disaffection.

13.63 The problems entailed in the co-operation of the various agencies involved should also have been anticipated by the Orkney Social Work Department management. In the particular context of the present case it was perfectly reasonable for the mainland workers to have sought to satisfy themselves that there was a sufficiently solid basis for the Place of Safety Orders. Questions which were designed to test whether the approach taken by Mrs Liz MacLean was legally sound were perfectly proper when designed to secure confidence that the course of action was supported by sufficient grounds. Senior staff should never discourage the asking of questions to check the validity of the basis of action which is required of them. While eventually the responsibility for the decision lies on the senior staff the action required will be performed with greater confidence and efficiency if it is preceded by full and open discussion with those who are to carry it out. To resent or discourage the asking of questions can too easily lead to a lack of confidence on the part of the workers in the work which they are required to do which may in turn imperil its proper performance or lead to a failure to discover defects in the proposed course of action which might be repaired or corrected and possible damage avoided. In the present case Mrs Susan Millar's resentment at what she saw as doubts or questions by the mainland staff was inappropriate and ill-advised. A greater degree of openness on her part and a more careful planning of the precise duties required of the incoming workers together with a full and clear explanation of those duties would have gone a long way to limit the problems which arose or even prevented their development. The Orkney management failed to appreciate the need for the mainland social workers to question the proposed course of action and failed to provide sufficient opportunity for them to do so.

VI. The Acting Reporter

13.64 If as appears to have been the case the management of the Social Work Department believed that a Schedule 1 offence had been committed against the children then it must be that they believed that the children might be in need of compulsory measures of care. They appear to have accepted that no further enquiries were necessary to satisfy themselves on that point. Given that the situation required some action, the statute pointed the way to be followed. In such circumstances it was their duty under Section 37(1)(A) of the Social Work (Scotland) Act of 1968 to give to the Acting Reporter such information about the children as they had been able to discover. Thereafter it would under the statute have been for the Acting Reporter to decide what action he ought to take. While there was some suggestion in the records that contact might have been made with the Acting Reporter at about the time of the decision it appears that in fact no contact was made with him. While he became aware of the situation when he visited Orkney some days after 14th February he chose to follow the procedure adopted in Strathclyde under which no action was required of him until what he described as a referral was made to him. That only occurred on 27th February when written information and copies of the Place of Safety Orders were passed to him. Had the statutory procedure been followed through he would have been formally involved at a much earlier date. He was in any event available for consultation and the Social Work Department might well have thought of seeking his advice at the earliest stage or even involved him in any enlarged discussion. Under the Strathclyde procedure the Reporter would do nothing until the matter

had been referred to him in writing. The Social Work Department should accordingly have referred the cases to him in writing or at least confirmed that he had taken on the cases under the Act.

13.65 Under the Northern Constabulary Force Order within twenty-four hours of the commencement of an operation of the investigation of alleged child abuse the Reporter should be informed by means of a briefing form. In the event this was not done until after 27th February. Sergeant Hanson had not done this earlier on the grounds that the Acting Reporter and the Social Work Department were already involved. But there was no clear reason why in accordance with the protocol the Acting Reporter should not have been formally informed immediately after 14th February by the Police. Even if he was following the rigid procedure adopted in Strathclyde of requiring a written intimation before acting, the briefing form would have served such a purpose and would have secured his involvement at the proper time. The matter of secrecy could have been discussed with him by the Police and a plan of action and investigation agreed. In compliance with the Force Order the briefing form should have been passed to the Acting Reporter on about 14th February.

13.66 Apart from these obligations on the Social Work Department and the Police the terms of Section 38 of the Act of 1968 place a clear obligation on a Reporter to act 'when he has received information of a case which might require a Children's Hearing to be arranged'. When Mr Sloan visited Orkney from 18th to 21st February and learned of the proposed removal of the nine children it is hard to understand why that was not the receipt of such information. The only reason why he did not comply with Section 38 at that stage was evidently because in Strathclyde the Reporter requires what was described as a 'referral' of a case to him. Furthermore at least where an agency such as a local authority provides the information the Reporter will only act on a reference if it is made in writing. The idea that the Reporter cannot act until a case is 'referred' to him is not based on the statute but on practice. The use of such language and the requirement for a 'referral' before he can act indeed introduces a formality which the simple terms of Section 38 do not envisage. As a result of Mr Sloan's insistence on using the formalities observed in Strathclyde the procedure of the preparation of the grounds for referral and the actual referral to the Children's Hearing were held back until after the children had been removed. Mr Sloan should have taken action earlier in conformity with Section 38(1) of the Act.

13.67 As a result of the procedure adopted by Mr Sloan the Children's Hearing which is required by the statute to sit on the first lawful day after the removal of a child under a Place of Safety Order was deferred to the limit permitted by the statute in order to enable grounds for referral to be prepared. The sitting was thought to serve both as a first lawful day hearing and as a referral by the Acting Reporter. It is at the least highly questionable whether it was legitimate to defer the hearing in order to accommodate the preparation of the grounds for referral and it has been powerfully argued by some of the parties, including counsel for Mrs Susan Millar, that the practicality to which the legislation refers is related to the practical problems of convening a hearing not to any practical problems the Reporter may have in preparing grounds for referral. It was certainly highly prejudicial to the parents and the children to deny them the immediate opportunity intended by the statute to have the removal of the children considered by a Children's Hearing. The criticism here has to be directed not so much against Mr Sloan personally but rather at an established practice which he was following. The point is discussed further in a later chapter.

13.68 While the Acting Reporter did carry out analysis of the information received from the Social Work Department the study was incomplete at least in so far as it took no account of the interview with BW on 23rd February even although Mrs MacLean had told Mr Jackson about the interview and he had made some notes about it. Furthermore no inquiry was made about any check which had been applied to the evidence or whether an expert opinion had been obtained. While the Reporter is not the ultimate judge of the reliability of evidence he should be satisfied that the evidence is of sufficient strength to be accepted in Court and

in the unusual circumstances of this case it would have been prudent to make some inquiry about the reliability of the evidence on which the referral would depend.

13.69 The inaccuracies in the paperwork by the Acting Reporter have already been the subject of adverse comment by the First Division in *Sloan v B* (1991 SLT 530 at 547H). Following the hearing on 5th March he completed the Forms 5 and 6 so as to indicate that the children did not understand the grounds for referral although the children had not in fact been present. Mr Sloan explained in evidence that he had taken the simple view that the children had not been present to understand the explanation and so had not understood. His later practice of adding 'by virtue of non-attendance' does not overcome the difficulty that the form is referring to the explanation to be given by the Chairman under Section 42 at the commencement of a hearing and to a situation where the child is present. This explanation in no way diminishes the criticism already made by the Court of Session that the paperwork left a great deal to be desired. Furthermore Mr Sloan did not keep a written record of his work. The keeping of such a record would have been in accordance with the practices adopted in Strathclyde which he was purporting to follow. He did however seek to give notification of the procedural position and it was not through any failure of his that the children in Strathclyde were not informed. Nor was the criticism that he should have obtained social background reports for the hearings well founded, although the ambiguity of Section 37(4) and Mr Sloan's construction of it invited the criticism. Reports would have been required for the disposal of the cases by the hearing and while he could have requested their preparation under Section 39(4) they were not a necessity for the continuation of the warrants.

13.70 As regards the later actings of the Acting Reporter no criticism was suggested of his formulation of the grounds for referral but some criticism was made of his holding a 'business meeting' to canvass the panel's view on the need for the children to attend the hearing. The holding of such a meeting is a matter of practical convenience and the general good sense of it was recognised by the First Division in the Appeal against the decision of Sheriff Kelbie. But the practice whereby the Reporter, who can easily be seen by the public as one of the parties before the tribunal, has a private conference with the tribunal to discuss the substance of a matter which the tribunal will have to decide at a subsequent sitting can seem unfair. Even although the formal decision is not taken until that subsequent sitting and even although everything is done in perfect good faith the appearance can be given of justice not being done. The written submission lodged on behalf of the Acting Reporter makes no submission on the meeting on the basis that the propriety of holding it has been upheld by the Court of Session and it is accordingly inappropriate to make any comment in relation to his actings on this occasion. The matter is however taken up later in Chapter 18.31. The danger of an informal meeting without parties being told is however the very danger into which Mr Sloan fell. While he despatched the notification forms to the children under Rule 7(1) he did so only as a matter of record on the basis that the children's presence had been dispensed with on 1st March. But the formal dispensation was only made on 5th March.

13.71 Mr Sloan's conduct at the sittings of the hearing also came in for criticism. Certainly he sought to perform a dominant role in the proceedings. On the other hand the occasion was unusually fraught, tempers were running high and the hostility and agitation expressed by the members of the public if not the parents themselves, understandable as that may have been, produced a situation in which it may well have been difficult to preserve a perfectly calm equanimity. Trying as the circumstances were and inappropriate as the conduct of various parties may have been Mr Sloan should have exercised some greater degree of patience and control.

13.72 One particular matter upon which opinions differed before the hearing was the propriety of referring to the reports of the medical examinations. In relation to the continuing detention of the children it is not easy to understand why the merits of the grounds on which they have been detained is not a material consideration and it is considered that Mr Sloan was in error in opposing the attempts to refer the substance of the medical examinations to the hearing. It has

recently been affirmed that in a referral allegations of abuse by a parent may be considered where the hearing are determining what course is in the best interests of a child even although those allegations have not been explored in the grounds for referral (*S v Rae*: First Division of the Court of Session 11th December 1991). Correspondingly it would appear to be competent and relevant when considering the question whether the continued detention of a child under a Place of Safety Order is in the child's best interests to have regard to evidence bearing on the strength of the grounds of referral. It is partly to remove such disputed matters of fact from the hearing that the recommendation is later made that detention under emergency orders should be controlled by the Sheriff.

XIV THE REMOVAL AND THE SUBSEQUENT EVENTS

I. The Removal

14.1 So far as the application for the Place of Safety Orders is concerned the lack of precision in the analysis of the situation as affecting each child has already been noted. But that lack of precision was followed through in the preparation of the respective forms of application for the Orders. No clear statement of the facts on which each application was made was presented. No separate consideration was given to the position of one child as against any other. The framing of the applications was loose, general and unspecific.

14.2 Little criticism can be made of the way in which the operation of removing the children on 27th February was carried out. The Police and the social workers generally showed a high level of professional skill and consideration and acted in every way they could to support the children through an experience which could not but be highly traumatic. One matter which caused concern to the children was the relatively short time which was allowed them to say goodbye to their parents or to take any possessions with them. Those with the children at the safe houses sought to explain what was going on and why they had been removed and efforts were made to treat them as individuals. It would have been desirable for further information to have been available to prepare the children for the placements to which they were going and they generally regarded the explanations which were given for the removal as inadequate. The transportation to the mainland and then on to their various placements was managed with reasonable efficiency. There were some shortcomings in communication both with regard to the arrival of the aeroplane into Kirkwall and with regard to the taking of cars close to the plane. The slight delay for one child in Highland was for good reason but the failure to have kept up with the change of address of a foster carer in Strathclyde was less easy to excuse. Each child was well supported throughout the day and if the removal had to be made it could hardly have been achieved more efficiently.

14.3 The decision on timing was taken with care and consideration for the interests of the children. It was recognised in the evidence that there is never a good time for the removal of children but that in light of the whole practical considerations an early morning operation was the appropriate choice. The arrival of the Police and social workers might have been very slightly later timed so as to avoid having to rouse any of the children from bed but it is difficult to be critical of the precise timing.

14.4 One consequence of the seclusion to the RSSPCC and the Police of all meaningful discussion with the children was that no such discussion could be held on the day of the removal. While there was a difference of view among the witnesses as to whether the day of removal was or was not an apt time for 'disclosure' the children had a right to know what was being done as regards themselves, to be told why they were being removed and to be given an opportunity to express their own view as fully as they wished. While explanation was tendered and some denials of abuse were given the embargo on discussion left no opportunity for any sounding out or testing of their positions. Even better support could have been given to the children had the workers not been so restrained in talking with them. Mrs M criticised the delay in the interviewing and while she may have been over optimistic in anticipating that any immediate interview would have led to the release of the children an immediate interview might have assisted significantly in prompting a reappraisal of the situation.

14.5 It would have been preferable for the workers to have given a full explanation at least to those children who were of an age to be able to understand the

situation which had arisen and of the procedure which would follow. This should have been done at the first appropriate opportunity during their removal. It may however be noted that while an explanation of rights is desirable it is of greater importance to secure that the rights are respected in practice.

14.6 One aspect which is plainly open to criticism was the prohibition on personal possessions. Particularly in a situation where children were being separated from their home environment, their parents and their siblings, the deprivation of any personal possessions was the final step in a complete isolation from all that was known and familiar. The theory on which the decision was made was comprehensible but its application in the present case inappropriate and unjustified on the basis of the evidence available to the Social Work Department at the time of the removal. The suggestion made on behalf of Mr Lee that given the allegedly organised and 'ritualistic' aspects of this unique case then as a precaution potentially significant personal possessions should not be allowed fails to meet the criticism. A submission was presented on behalf of Mrs Susan Millar that it was understandable to err on the side of caution but even given a belief that costumes and equipment accompanied the abuse a blanket prohibition cannot be justified. The decision sprang from the conviction that the children were the victims of an organisation engaged in sexual abuse exercising a real control and power over them. The adoption of an extreme course of action in this regard was a further illustration of the haste which coloured much of the decision-making and which subordinated the interests of the children to the anxiety to find evidence of abuse. Here again was a decision which was prompted by experience with the W children on the assumption that everything which was thought to apply to the W children should also apply to the nine children. Fortunately it was not in every respect rigorously enforced.

14.7 It was a matter of instruction that the Place of Safety Orders were to be shown to the parents but retained by the social workers. This gave the parents an inadequate opportunity in the circumstances to study and absorb what was contained within the documents which they were shown. It would have been easy to have made copies of the Orders so that a copy could have been left with each of the four families to study after the removal. This is a practice which should have been followed in the interests of the parents.

14.8 It would have been helpful to have had also some written statement of explanation which could have been left with the parents for their consideration after the shock of the removal had subsided. The Department had no standard information leaflet and had not prepared any special document for this occasion. Mr Lee wrote to the parents on 1st March after the removal but the letter gave little detailed information. He offered contact with them and was seeking to bridge the gap which had already developed between his Department and the local community. The Department however should have prepared a short document explaining the procedure following on the removal and setting out the rights which the parents had which could have been left with the parents to study later in the day.

14.9 As regards the intention to have the children medically examined the parents were asked to consent to such examinations. Their responses were varied and did not in every case consist of an unqualified consent. It would have been desirable that the position should have been noted in writing so that an easy assurance could have been available that the parents' consent had or had not been given so as to satisfy the medical examiners when the time for examination came.

II. The Children and Their Placements

- (A) THE MEDICAL EXAMINATIONS **14.10** So far as the medical examinations in the Highland Region were concerned it was fortunate that the doctors thought fit to carry out a full medical examination as well as the more specific examination for evidence of abuse. This was not done on instruction but evidently on their own initiative. However the delay in holding the examinations was ill-advised. It was pointed out that the day had been a distressing and disturbing one for the children and it was necessary that they be

settled in their new homes as soon as possible. On the other hand it was pre-eminently in the interests of their own future care and in particular the foster carers that a record be available at the earliest possible stage of their whole medical condition. While to an extent the matter is one of balancing the interests of protecting the foster carers against the comfort of the children it would have been preferable that the medical examinations in Highland be carried out on the day of the removal as they were or were intended to have been in Strathclyde.

14.11 While it had been intended by Mrs Susan Millar that the medical examinations both in Highland and in Strathclyde should have been both general and particular the point was not specifically or clearly followed up in Strathclyde and having been left vague the matter led to confusion and misunderstanding. Mrs Millar had left the matter to the Police to resolve and even when Mr Mair from Geilsland School queried whether SM had had a full medical she did not take the matter beyond a discussion with Mrs Susan Brown. No check was made on the nature of the medicals in Strathclyde and this important detail had been left in the hands of Mr Philip Greene. It ought to have been clearly laid down in the planning that the medical examinations for all the children in either Region were to be both general and particular. The absence of a manager appointed to control the whole case contributed to the confusion.

14.12 The confusion which occurred in Strathclyde over the matter of the medical examinations reflects the uncertainty as to who had authority in the matter as well as the difficulty in communication and the consequent room for misunderstanding. But while that relates to the consequences of the failure to secure the appropriate examinations it should have been made clear at the outset that 'reception into care' medicals were required as well as those for signs of sexual abuse. Mr Philip Greene was familiar with the way in which the Fred Stone Unit operated and he should have given the necessary instruction. Dr Shepherd might have raised the matter but he held the belief that the two forms of examination should be kept separate. Even if Mr Greene was not aware of Dr Shepherd's own view in that regard given the circumstance of children from another area coming to Strathclyde for examination he should have expressly confirmed that both examinations were to be carried out at the one time.

14.13 Once it was discovered that some problem had arisen in Strathclyde a meeting of the persons most closely involved should have removed any misunderstanding. The desirability of protecting the position of the foster carers was an obvious consideration requiring speedy action. While repeated examinations for sexual abuse are obviously to be discouraged the holding of a normal medical to check a child's general health and freedom-from-infection is not so stressful or harmful as to have been an obstacle. But as soon as the problem arose a meeting of all those concerned in the matter should readily have avoided the confusions and contradictory communications and enabled the whole matter to be resolved within a period far shorter than that which it in fact occupied and with less acrimony.

14.14 The results of the medical examinations were not conveyed directly or immediately to the parents. When Mrs M asked the Police they were as she put it 'economical with the truth'. Mr Lee considered it to be a point of debate whether the parents should be told. The information was passed to the Acting Reporter but he was conscious of a need for confidentiality. There was no sound reason why information about the medical condition of their own children should not have been passed to the parents.

(B) THE PLACEMENTS

14.15 The placements themselves at least in the Highland Region were not open to serious criticism. Those in the Highland Region were chosen with considerable care to suit the particular children so that the effect of a strange environment might be minimalised. The selection of urban locations for the B children in Strathclyde was less satisfactory. The transition to a substantially urban environment, very different from the island of South Ronaldsay, could not but be unsettling. But the problem of availability was a real one throughout the whole of Scotland

14.16 The selection of Geilsland School for SM was, without any discredit to the school itself, completely inappropriate even as a temporary refuge for him.

While shortage of accommodation in Strathclyde played a part in its selection the idea that he might be an abuser, which was an echo of beliefs about members of the W family, was one conscious element in the thinking and was based on pure speculation. It was also thought again without sufficient basis that he was of an aggressive temperament. To have thrust him compulsorily into the social environment and the regime of Geilsland School cannot reasonably be seen as being in his best interests. Had he been of a particularly sensitive nature the experience could have been overwhelming. Fortunately he was blessed with a sufficient independence of mind and robustness of character to withstand it. Inadequate investigation of the facts, inadequate information about the boy himself and inadequate thought for his personal interests combined towards a course of action which was a source of distress both to his parents and to himself. It was unfortunate that Mr Lee did not seek further help from Highland Region where more places could have been located albeit at some distance from Inverness. But if the matter rested on a decision between convenience for interview and the appropriate accommodation of the child there can be no doubt which consideration should have received the priority.

14.17 No serious criticism should be levelled at Mr Mair who was quick to realise that he should take a personal concern for SM and exercised a sensitive and intelligent care for him to which SM responded well and with a creditable independence of mind. Similarly no serious criticism should be made against any of the foster carers who in their own ways and with their own skills devoted a high degree of care, sensitivity and concern for the children entrusted to them. The foster carer of the two B girls while in many cases competent and successful was the least successful choice in the special circumstances of the particular case, but any criticism there is directed not to any level of dedication or sincerity in her care for the children but simply to her difficulty in adjusting to a novel and unusual requirement and in particular to a restricted role in child care planning. The criticisms raised by Mrs T about the care given to MT reflected a high standard of care which she herself set rather than any neglect by the foster carers. The various complaints raised after TH returned home were later withdrawn as insecurely based and while there was some initial delay in her schooling no significant criticism can be made of her care. Her brother was also well and sympathetically looked after and the concern created by his behaviour was managed professionally.

14.18 There were moreover inadequate grounds for requiring separate placements for each child. The decision to separate the siblings from each other and to refuse access between them was one of the respects in which the management of the nine children was coloured by experience with the seven W children. The separation was as could be anticipated an evident cause of distress and insecurity to some of the children although not to all and the partings were in some cases cause for tears. The greater isolation which removal from the island entailed gave all the more reason to keep the siblings together. The reason for the separations was substantially related to the securing of evidence from the children. While by the separation it was sought to give each child an individual space in which his or her concern might more readily find expression, the total separation, which except in the case of the B girls excluded any access between the children at any stage, was designed not only to facilitate any disclosure by a child of material which would be of individual significance but to maximise the value of that evidence by securing that it would be the less open to challenge on the grounds of it having been contaminated by possible discussion between the children. The risk that one child might be subjected to pressure not to talk of abuse or to retract statements already made was seen as being avoided by keeping each child in isolation from the siblings and indeed the family or even the friends of each child. The welfare of the children was thus in this way subordinated to the interest of obtaining evidence. Even if that had been a reasonable course at the outset the position should have been reviewed. A manager clearly appointed to control the case could have required such a review. The RSSPCC's method of interviewing whereby no limit was put on a series of interviews and the child was engaged in a succession of endeavours in communication had the unfortunate consequence of a continued isolation of each child from the others. Those who advised the

course as well as those who decided upon it are alike open to criticism in this regard.

14.19 The information available on the children at the time of the removal was scant. The pen portraits which embodied nearly all of it were passed to the foster carers but the full details in particular of the children's health were not available. No active steps were taken to obtain full medical details from the parents. The Social Work Department did obtain a variety of further detail from the children on 27th February and from those parents who visited the Department from time to time and that information was passed through to the appropriate foster carers. But the transmission of information relevant to the children's care depended on the parents making contact with the Social Work Department and that was an unsatisfactory basis on which to proceed. The Social Work Department should have taken more active steps on or after removal to secure full information about the children's welfare. While the amount of information given to the foster carers varied, the extent to which they required information about the children also varied. The extent of information which can be given when children are removed in emergency situations must in any event vary with the circumstances. Opinions also differed on the amount of information which should be given to them. As Miss Janette Chisholm observed some want more and some do not. The pen pictures were not particularly helpful and in the case of TH the information was in part misleading. Although she responded well in foster care the view that she blossomed in the place of safety was substantially due to a false hypothesis. While the absence of more complete information did not significantly prejudice the care of the children more details could, given the time available, have been obtained if not before the removal at least very shortly thereafter.

14.20 Some attempts were made to suggest alternative placements for some of the children. The suggestions appear to have been turned down without enquiry. In some cases at least there were reasons why such alternatives could not qualify for the purposes of places of safety. However it was evident that other suggestions could have been made if the particular places which were put forward were for any reason considered unsuitable. Response to the suggestions was however slow and Mr Sloan did not even trouble to acknowledge the letters which he received or ensure that due acknowledgement was made by the Social Work Department. While the Social Work Department and the Acting Reporter may have been under very considerable pressure at the time a more courteous response to the suggestions which were made would have been appropriate.

(C) ACCESS AND
COMMUNICATION

14.21 Even if the separation of the children from each other had been justifiable there was no good reason why at least supervised access should not have been permitted between them. Here again the pattern which had been followed with the W children was adopted. The embargo on all access simply added to the children's individual sense of isolation. Their distress was aggravated by their ignorance of how long they were to be away from home. The prohibition on access was linked with the decision to proceed expeditiously with investigation of the allegations. Those who advised against access as well as those who prohibited are open to criticism in this regard. It has been submitted that there were compelling reasons against access here in that one sibling might pressurise another, in the need to avoid contamination of a sibling's statement and thus free the sibling from a probing cross-examination and in order to provide 'time and space' for each child to adjust. It is hard to see that such reasons could not be adduced in every case of alleged multiple abuse and there were no sufficient known factors in the present case to warrant such a course. Furthermore even if physical access by the parents was initially inadvisable access by letter or by telephone by the parents and the older members of the families should have been allowed. There was no solid reason for questioning the propriety of the older daughter and son of the M family visiting their younger brothers.

14.22 Even if there had been justification in some initial isolation of the siblings nevertheless the matter should have been kept under close review and after one or two weeks there seems to have been little reason for not allowing at the least access between the siblings so as to have achieved some albeit supervised contact

between them. There was similarly inadequate justification for refusing the access by parents and others after the first week or two after the removal. While the matter was said to have been kept under review in the event no positive consideration appears to have been paid to it and in the absence of the appointment of a case manager no-one was clearly given the task of reviewing it.

14.23 As regards correspondence to the children that was clearly one area in which the arrangements made by the Social Work Department were not adequately planned and not adequately managed. While the management cannot be blamed for not anticipating the quantity of mail which eventually arrived, there was insufficient consideration given to the need to interfere with the mail at all. At the basis of the intended arrangements was a belief that the correspondence had to be vetted. Again this can be seen as a continuation of the practice which had prevailed in relation to the W children. But in connection with the nine children there was no adequate basis for the belief that such vetting was essential. There was no good reason for the Social Work Department to interfere with the correspondence and the communications which the parents intended should be passed to the children and which they entrusted to the Social Work Department to pass on to them. Furthermore there was a lack of clarity in the roles which RSSPCC and co-ordinators were to play and no discussion between the agencies about the roles expected to be played. As a result correspondence was delayed in reaching the children and they were deprived of a contact with their family and friends which they were entitled to enjoy.

14.24 So far as correspondence from the children was concerned there appears to have been no clear policy and inadequate consideration given to the matter. There was no reason from the evidence why the children should not have been perfectly free to write to their parents. While the children should have been given active encouragement to keep in contact with their homes and to write to their parents there was on the contrary some discouragement given on occasion by the interviewers.

14.25 One particular area to which consideration had not been given in advance of the removal was the religious welfare of the children. Although Mr Lee sought some advice on the subject no positive initiatives appear to have been taken in this regard and the matter was left to be raised by the parents. It was at the urging of Mr and Mrs T that a Rabbi was enabled to visit the T children.

(D) EDUCATION **14.26** While the children in Highland were entered at their local schools without debate or question the education of the children in Strathclyde became an issue to be discussed at early meetings. The meeting on 6th March sought to resolve it but no minutes were kept and participants had different ideas of what if any decision had been reached. The matter became lost in uncertainty and no-one seemed to be capable of taking an initiative to discover what was intended by Orkney and taking appropriate positive action. Had a clear plan been made and education arranged in advance before the removal was carried out there should have been as little problem with this matter in Strathclyde as there was in Highland.

14.27 The education of the children in Strathclyde was something to which those responsible for them should have taken every effort to secure. This was particularly the case so far as the older children were concerned and of all of them especially SM who was working towards examinations of some significance. The educational facilities at Geilsland fell short of his needs and those needs should have been very obvious to the Orkney Islands Council. Although efforts were made to get work to him very little was achieved and over the period of his absence from school a much greater effort could have been made both in Strathclyde and in Orkney to secure that the necessary books and papers were sent to him.

14.28 After the meeting on 6th March Mr Philip Greene who felt that the B children should be at school consciously failed to pursue the task of obtaining tutors for the children after making some initial attempt towards that end. His explanation was that he believed that the children would be moved or returned home in the near future but that is no sound reason for acquiescing in a cutting short of their education. The Orkney management meanwhile believed that action was being taken or indeed had been taken. The matter illustrates the absence of

any clarity in the identity of the decision-maker in Strathclyde and the failure to achieve any clear lines of communication. In the middle of the confusion the children were left with their educational progress interrupted and their needs in that regard neglected. There should have been a clear early decision whether they were or were not to attend school and in the event of them not attending school there should have been a determined effort to secure tutors for them.

14.29 In the Highland Region despite the absence of adequate advance planning the children did manage to secure some continuation of their course of education. There was a delay longer in some cases than others but justifiable in the circumstances of the medical examinations which had to be accommodated and a time for the children to settle in to their placements.

14.30 Some lack of care regarding the education of the children in Strathclyde is reflected in the minutes of the case conference of 19th March. Miss Lindsey Stevenson did not attend that conference and it was left to Mrs Liz MacLean to report on her behalf on the children in Strathclyde so far as the RSSPCC were concerned. Mrs Susan Brown was in attendance but as recorded in the minutes the impression she gave was that arrangements were being made for tutorial assistance for the three B children and that arrangements had been made for a tutor to help SM. Why the children were not attending school was not discussed or questioned and the information regarding tutors was not accurate. Those staff of the agencies who attended the case conference should have taken greater concern about the adequacy of the arrangements for the education of the children in Strathclyde.

(E) MANAGEMENT **14.31** There is a very remarkable comparison to be made between the management of the children in Highland Region and that of the children in Strathclyde. In Highland there was virtually no problem in the administration. The foster carers managed efficiently and effectively. Lines of communication were simple and clear. The co-ordinator served as an effective link between Orkney and the foster carers and kept in regular touch with all of them.

14.32 The unusual nature of the case however called for careful planning in its management in Strathclyde. All material decisions were for the Orkney Islands Council to make but in day to day matters they had to rely on the officials in Strathclyde. It was not practicable for the officials in Orkney to care for the children without support and assistance of the local Strathclyde management. However officials in Strathclyde believed that the appointment of a co-ordinator should obviate the need for their active involvement in the management of the children's care although their staff continued to offer regular support to the two foster placements. There was some reluctance in Strathclyde to take a particularly active role in the provision of such support and assistance in the belief that the appointment of a co-ordinator by Orkney Islands Council should obviate the need for local initiatives. Moreover the failure of the circumstances of this particular case to fit easily in the established practices, routines and procedures which were standard in Strathclyde, together with the considerable number of people who became involved in some capacity or other, led to misunderstandings and difficulties in communication contrasting sharply with the simple and efficient procedure adopted in the Highland Region.

14.33 Having agreed to provide placements for certain of the children in Strathclyde the management of the Social Work Department there did not envisage the problems which might be entailed in the particular circumstances of the case. It was assumed that there would be no difficulties. Mr Ian Gilmour as Depute Director had the eventual responsibility but he delegated practical responsibility implicitly to Mr Philip Greene without specific definition of what it was he was to do. Mr Greene's role was developed by himself. Mr Gilmour intended him to operate as the personal point of contact at Strathclyde Regional Headquarters for Orkney or their co-ordinator. Mr Greene took on the role initially of referring the concerns brought to him by the foster carers to Orkney Islands Council at least until Mrs Susan Brown was appointed when that task was taken on by her. That no co-ordinator had been appointed who was able to act from the start of the operation added to the difficulty.

14.34 The overall management and control of the children in Strathclyde was bedevilled by a variety of different pressures and prejudices which operated together to frustrate any clarity or confidence in the lines of communication or the making of decisions. As Mrs Susan Brown saw it there were tensions between Strathclyde and others which made for difficulties of communication and co-operation. The risk of rivalry between and among agencies and professional bodies is a recognised probability especially where child abuse is concerned but in the present case at the back of it all was the initial lack of confidence in the Orkney management which had been fostered by the Strathclyde workers most closely involved in the removal of the children and which they had carried home and forcefully expressed at their own debriefing. The exaggerated criticisms which they then formulated, nearly all of which they came later to accept as quite unfounded reflected an attitude towards the tiny department in Orkney which did not suggest an enthusiasm to be sympathetic to the problems faced by the Orkney Social Work Department. Mrs Brown was conscious of a feeling within the Strathclyde staff that what they regarded as their own good practice had not been followed in Orkney and that Orkney had not acted as efficiently as Strathclyde would have done. While the management acted responsibly in accepting the four children into placements within the Region they did not allow for the complexities which that acceptance involved. Their relative lack of confidence in the host authority far from inspiring greater effort to anticipate problems and to take active initiatives for which their extensive experience made them well qualified rather led to an expectation that matters would be resolved by others.

14.35 Another element was the dissatisfaction which was felt with regard to the method of work adopted by the RSSPCC. Mr Philip Greene for one thought that the work should have been done differently. In particular it should not have neglected the skills which the foster carers possessed and were keen to use as they normally did. His dissatisfaction was allied with the irritation felt by the foster carers not only at their not being told what passed at the interviews but at what they saw as a lack of interest even in such information as they sought to pass on to the RSSPCC at least in the early stages. They regretted not being involved with the RSSPCC as a team together. Furthermore Mr Greene regarded the RSSPCC as having a wider involvement than interviewing the children. They had been involved in the removal of the children, and he assumed that they would be providing a caring service for the children as part of a social work task connected with and relevant to the interview work in which they were engaged. Mrs Susan Brown was conscious that the Strathclyde staff would have preferred to do the interviews their own way.

14.36 Another element which affected both the team of workers who went to Orkney and the later management of the children was the highly structured character of the working procedures in Strathclyde which was no doubt necessitated by the large size of that authority. This may well have made it difficult for the team to have accepted that another authority might with success operate different procedures and for them to feel at ease in working in Orkney where detailed guidelines did not exist. While, as Mrs Susan Brown observed, the suspicion which such a situation may generate can be resolved in time, there was a need in the present case to act quickly.

14.37 Another problem was the absence of any clarification of the roles of the principal persons involved in the care of the children. Thus there was doubt in some quarters as to the role of Mrs Susan Brown. That matter coupled with the initial problem over her right to meet the foster carers added to the difficulties of her work. Mr Philip Greene did not know what her position was and did not see her as fulfilling the role of the children's social worker. He thought she was in some way associated with the RSSPCC and was confused about her role. But while he recognised that she should be a channel for communication which the foster carers could use he did not see himself as ceasing to have contact with them because at a later date the foster carers would revert to working as Strathclyde foster carers. He supposed that he was expected to do what she asked him to do but he was not sure what her tasks were. The roles which were expected to be

performed by all the parties involved should have been agreed and clarified at the earliest possible date before the children arrived in Strathclyde.

14.38 In particular it would have been helpful if a further and fuller explanation of the role of the RSSPCC had been given to the foster carers of the B children and in particular to the foster carer of WB and EB, although she might well have had difficulty in adjusting to it even with a more complete understanding. Mrs Susan Brown certainly considered that further explanation was required. In the event the foster carer remained anxious and concerned and that in turn prompted Mrs Brown's desire to move the children elsewhere.

14.39 Another matter which should have been clarified was the identification of the children's social worker. The practice in Strathclyde would have been to have had a key worker who was responsible for the child and who would have organised a meeting of all those involved in the care of the child at an early stage. In the present case the key worker was not identified and no-one took any initiative to find who was intended to have that role or to hold the usual kind of meeting which would have helped in the planning, the clarification of roles and the taking of decisions for further work. Once again the case did not fit the established procedures to which the individuals in Strathclyde were accustomed and as a consequence initiatives seemed to be paralysed and communication suffered as a result. It is however somewhat remarkable that, as has been pointed out by Orkney Islands Council in their final submission Strathclyde Regional Council at no time between 27th February and 4th April indicated to Orkney Islands Council that a further specific social worker should have been appointed to provide for the management of the children in Strathclyde. Having internally prepared a list of alleged criticisms of Orkney Social Work Department and then recognised that these were not supportable it ill became the Strathclyde staff to raise as a criticism a point which at the time does not seem to have occurred to them.

14.40 Furthermore the role and responsibility for the foster carers in Strathclyde should have been more clearly defined. It was considered by the Strathclyde management that the foster carers had been handed over to Orkney Islands Council and had become Orkney's foster carers for the duration of the placement. But if that approach was to be followed through a question should have been asked about the link workers for the foster carers and their line managers. Mr Philip Greene believed that Orkney would undertake the management of the foster carers but in fact they continued to use their own link worker, Ms Jackie Wallace, and their own line management. Mr Greene regarded it as Orkney's placement and it was for Orkney Islands Council to decide how the placement was to be used and serviced. Inadequate thought was given to the identification of the supporting staff or of the roles which particular individuals were to have. Mr Ian Gilmour assumed that the foster carers would be given the normal arrangements for support but the matter was not explored. He understood from Mrs Susan Millar at their meeting on 20th February that she was appointing a case co-ordinator but that matter was left without any further detailed understanding and Mr Greene found himself having to carry out something of that role at least during the days before Mrs Susan Brown started her work.

14.41 Another element which led to the difficulties in Strathclyde was the lack of clear lines of communication which was itself a consequence of the lack of clarity in the roles of the principal individuals and the lack of sufficient planning and organisation in advance. Communication was also rendered more difficult by the number of people involved in Strathclyde. Mr Mair's resort to a 'scatter gun' approach illustrates the difficulties which large organisations have to solve in enabling an effective system of communication. As Mrs Gwendoline Hamilton explained there were many steps that the information had to pass through because there were no direct links with those who could make decisions or provide answers. Too many people had to be asked before an answer was obtained. On occasion matters were simply raised at a meeting and allowed to remain unresolved. Mrs Hamilton found a difficulty in the absence of any explanation having been given for such matters as the prohibition on sibling access or on contact or correspondence with the parents. But the difficulty was not one which should have prevented these matters being attended to. When problems arose Mr Philip Greene, Mr

Sandy Fraser, Mrs Hamilton and Ms Jackie Wallace could all be involved to some extent or other. Mrs Hamilton would refer to Mr Greene or failing him to Mr Fraser for her concern to be referred to Orkney but she would also communicate through Mrs Susan Brown. The number of people involved aggravated the existing difficulties in communication. The complexities of the administrative organisation and the confused lines of communication can be seen in the problem of arranging their 'reception into care' medicals and in the resolution of the possible need for treatment for SB's teeth.

14.42 Another element which influenced the operations in Strathclyde but was overcome in Highland was that of the stress and strain of the case. To an extent this is a normal concomitant of cases of sexual abuse. As Mrs Susan Brown explained where abuse is believed but not established attempts are usually made to discredit the Social Work Department involved and the media are often brought in to assist in that exercise. That in turn produces further strain on the Department and adds to any difficulties there may be in working relationships. Certainly in Strathclyde there was a keen anxiety about secrecy in some quarters, particularly in relation to the address and identities of the children. Further the case was one of some notoriety and adverse press publicity which readily inspired anxiety to avoid mistakes. As a result of that anxiety there was a consequential tendency to inflexibility.

14.43 While these criticisms can fairly be made the fact remains that despite the uncertainties and difficulties the children were well cared for. The most obvious example of confusion, the questioning of the wishes of Mrs Susan Brown and Orkney Islands Council and the criticism of their intentions was in relation to the medical examinations. But in the event most of the children were examined and no adverse consequence appears to have followed from the initial failure or the delay in examination.

(F) THE CO-ORDINATORS **14.44** The system of appointing a co-ordinator as a channel of communication between the Social Work Department in the area from which the children came, and the agencies involved with the children in the area of their placement, was clearly a sound one. While in Highland the part played by the co-ordinator appeared to be generally recognised and accepted there was considerable uncertainty about the precise role of the co-ordinators in Strathclyde. It would have been preferable for the precise responsibilities and duties of the co-ordinator to have been recorded in writing for their own information and for the information of those involved in the Region where they were working.

14.45 The system worked reasonably well in the Highland Region where a number of detailed requests, as for example from the T parents, were passed through to the respective foster carers. Significantly for the success of the co-ordinators' work in Highland Region the appointment was made and came into operation at an early date and lines of communication were kept simple and short. Further Mr Paul Hersee was working in a Region which as an employee in the Region he knew well and where he was known. He took on a direct relationship with the children and already had connections with the foster carers.

14.46 The reports returned to the parents from Highland Region were in some cases anodyne and such as to give little comfort to them or even because of the apparently formal terms in which the reports were couched increase their concern. A greater degree of understanding of the parental distress and their natural wish to receive all possible information about their children might have enabled a greater degree of personal detail to have been provided. Further thought and care could have been taken in the formulation of the information which was passed back to the parents.

14.47 In Strathclyde the co-ordinator failed to overcome the administrative complexities of the area. This was partly due to the uncertainty of where precisely authority lay for decision-making and control. Mrs Susan Brown was conscious that everyone claimed to have authority to change or countermand anything which she proposed to do. She believed that Orkney Islands Council had overall control of the children but that they required the co-operation of the other Regions and

it was that co-operation which she sought to achieve. Her basic difficulty was that her role and authority in Strathclyde Region were not clearly understood.

14.48 The problem in Strathclyde was exacerbated by the late arrival of Mrs Brown. No doubt it was not easy to find someone willing to act as co-ordinator but it was obviously desirable to have had a co-ordinator in a position from the outset. Many of the problems which arose could have been avoided if the co-ordinator had been in place before the children arrived and could have secured and clarified all the lines of communication and foreseen and attempted to resolve the problems which came to be raised after their arrival. Mr Philip Greene sought to fill the vacuum at the start but to an extent that made the definition of Mrs Brown's role when she arrived the more obscure.

14.49 It was unfortunate that a co-ordinator was not designated by Orkney from the social work staff of Strathclyde as Mrs Brown's unfamiliarity with the area, neither knowing nor being known by many of those with whom she had to work particularly in a context where as she was aware Strathclyde were already critical of Orkney, was a clear obstacle for her. The lack of co-operation which she experienced was probably due as much to that factor as to any conscious sense of antagonism. Nor was it helpful for her to be given a base at Strathaven where she was ill-accommodated and seen as linked with the RSSPCC rather than with the authorities between which she was to be a channel of communication.

14.50 In the event Mrs Brown was faced with a situation in which responsibilities seemed to overlap and authority was obscure. Both the period for which she was available to work and the difficulties she faced effectually frustrated whatever good offices she might have been able to perform. In comparison with the relative ease with which matters were managed in the Highland Region it appears that it was the prevailing structures and systems in Strathclyde which caused the difficulty and Mrs Brown lacked the determination to insist on the matters she wished resolved. Further meetings might have clarified the roles and responsibilities of the various persons involved. Mr Philip Greene recognised the importance of regular meetings but unfortunately such arrangements as had been intended for a meeting following on 6th March failed and through misunderstanding or lack of concern the subsequent meeting was cancelled as too few could attend. Mrs Brown attended a meeting in Orkney on 19th March but found that that was too hurried and disjointed to be useful. Further steps should have been taken at an early date to clarify and resolve the roles and responsibilities of the various persons involved in the care of the children in Strathclyde.

14.51 While Mr Paul Hersee made several visits to the children in Highland Mrs Susan Brown failed to give a clear priority to seeing and visiting the children in Strathclyde. She gave a priority to finding another placement for the B girls but failed to view the whole situation and identify where the greatest need for her services lay. She did not recognise the need for her to fill the place of social worker for the children. The whole situation was rendered more difficult for her by the complexity of communicating and the lack of clarity on her role but she should have taken a more immediate interest in the welfare of the children themselves and spent more time with the children and foster carers in their homes.

14.52 While Mr Hersee explained the grounds for referral to the children in Highland Mrs Brown failed to do the same to the children in Strathclyde. The Reporter had forwarded the documents to the Social Work Department for transmission to the children and while Mrs Brown received the documents she never followed up the request to give the necessary explanation to the children. SM was left to hear the details through the media. Mrs Brown sought to justify the omission by saying that it was not for her to give the explanation. But she did not communicate that view to the Social Work Department or take steps to have anyone else give the information. She put the documents back in their envelope and forgot about them. She should have given the explanation to the children as she was asked to do.

(G) THE CURATORS **14.53** The actings of the curators do not fall within the remit but the fact of their appointment and the actings of the agencies in question in relation to them are for consideration. In that regard both the Social Work Department and the Reporter as

well as the parents welcomed the appointment of the curators and they all co-operated very fully with them and assisted whenever required to do so.

14.54 Mrs Susan Millar raised the point in evidence that if safeguarders had been appointed they could have been more fully used and they would have had a clearer remit. But there was a practical problem of there not being sufficient local candidates available to accept office as safeguarder and in the circumstances there was no alternative but to apply for a common-law appointment. It was plainly right to have taken that step.

14.55 However there was clearly doubt on the part of many people about the precise role, power and responsibility of the curators. They were strictly curators *ad litem*, appointed for the purpose of the litigation only and with a remit limited to that matter. Their powers and duties did not extend to matters of the welfare of the children beyond the scope of the process of the Section 42 proof and such comment as was voiced during the Inquiry with regard to their actings was coloured by a misapprehension of their restricted function. Some suggestion was made that the curators should have had full powers to represent the child so as to give the necessary consent for medical examination and interview. That would involve a power greater than that of a safeguarder who has not only the power and duties of a curator *ad litem* but the further rights and powers set out in Rule 4A of the Social Work (Sheriff Court Procedure) Rules (1971). The one criticism which can be made is that in making the application thought could have been given to the seeking of such specific powers as were considered appropriate. That might have helped to clarify the curators' precise role and their responsibilities. In the event however while there was debate even among the curators themselves about their powers and roles they were fully supported and were able to carry out all they wished to do.

III. The Parents and the Social Work Department

14.56 One matter to which quite inadequate consideration had been given by the Social Work Department was the support of the parents after the children had been removed. It should have been ascertained that Mr B was away from home and that Mr and Mrs H had not been detained. Mrs Susan Millar only accepted that there was a deficiency in the failure to support the parents on the day of 27th February pointing out that efforts were made thereafter. She attributed the lack of support on the 27th to a lack of resources not to the way in which the resources were deployed. The Department had as she put it prioritised the children. Mr Lee recognised that the parents should be given the same courtesy as the children and that they should be kept informed as was recommended in the Cleveland Report. He agreed that they should have been supported by the Social Work Department but he identified as difficulties the requirement for secrecy imposed by the Police, the hostility demonstrated by the local people and the threats to the safety of anyone who attempted to visit South Ronaldsay, and the disorientation and demoralisation which affected the Department. But while there were explanations why no positive step other than the initiative of 1st March was made Mr Lee was not prepared to present these considerations as grounds for excusing the Department's failure from doing more. Mrs Millar recognised in her evidence the requirement for family support after the children had been uplifted and suggested that the lack of resources was an element in the failure to provide support but the Department was not devoid of resources on 27th February after the removal of the children and the absence of any planning for support remained inadequately explained. Mr Rab Murphy and Mr Sandy Fraser might have been used for providing support in the afternoon of the 27th of February. Even if there was an insufficiency of staff to enable one of them to stay with the parents at the time of the removal no plan had been made for anyone to visit the parents later in the day of the removal. Indeed in his fax of 14th February Mr Lee had not sought a sufficiency of extra staff to provide support for the parents. It was understood that the parents would be in the hands of the Police and at an early stage it might have been thought that they would be arrested and not allowed home, but once it was evident that a short period of detention was the most that was to occur steps

should have been taken to visit them and give them a measure of support and advice. Such a course could well have had a significant effect on the subsequent relationship between the parents and the Department. The absence of any adequate planning for the support of the parents and the failure to take a positive course of personally visiting them later on 27th February only fuelled the hostility of the parents and decreased their confidence in the Social Work Department.

14.57 While the contact between the parents and the Department over the period during which the children were away was not inconsiderable the matter expressly raised by the parents related to the welfare of the children rather than to themselves. That however should not have rendered unnecessary any initiative by the Social Work Department towards their own support. On the other hand the parents had sought to an extent to distance themselves and that together with the prevailing atmosphere of hostility and public attention were at least factors which impeded such an initiative. That correspondence required to be sent to solicitors acting for the parents helped to keep the relationship remote. In their dealings with the parents after the removal of the children the staff of the Social Work Department made sincere attempts to meet the anxieties of the parents but their refusal to visit them in South Ronaldsay perpetuated the rift already created between the two groups. The attempt should have been made despite the evident hostility which they faced. It has been submitted on behalf of Mr Lee that the families were well supported emotionally, legally and politically within and outwith the local community; but that very support was adding to the estrangement of the parents. It was recognised by some witnesses that the parents had to be looked after even if they were hostile. A positive effort should have been made and it should have been made at once. The longer the matter was left the more difficult it became until the Department found itself beleaguered and not prepared to set foot on South Ronaldsay.

14.58 The Social Work Department could have taken further steps to secure a better relationship with the parents by providing them with more information than in the event they were prepared to supply. In particular they could and should have invited the parents to attend the case conference which was held in March. If there was matter which was considered confidential and inappropriate for them to hear then that could readily have been managed by leaving it to the end and requesting them to leave before that part of the agenda was reached. Alternatively if their presence was not appropriate they could have been asked to contribute their views in writing. In any event if they were not present the outcome of the case conference should have been intimated to them as soon as possible after it.

14.59 The parents were not told of the addresses of their children nor in whose care they were. They did not know if the children were together or separated. While there was a statutory authority for the removal of the children, and even if there was some reason why the parents were not to contact them, there was no clear ground for the decision to conceal from them where their children had been placed. Mr Jackson provided such information without hesitation to the law agents acting for certain of the families but it is difficult to justify why the information was not readily given to the parents themselves. Again a course adopted in relation to the W children was here repeated in relation to the nine children. The Social Work Department made some effort to keep the parents informed about their children but there was no sound reason for being as reticent as they were. They did not explain the course to be taken with the correspondence and as a result the parents believed that the children would be receiving their letters when the mail was in fact not being forwarded directly to them.

IV. The Interviewing of The Nine Children

(A) **PLANNING AND
PREPARATION**

14.60 Following the critical disclosures of the W children in the first half of February 1991, the taking of the nine children named in those disclosures into places of safety was uppermost in the minds of the management of the Social Work Department. There was no specific point at which a decision was made to interview the nine children and no decision was recorded. The course appears to have been

assumed to follow on the enforcing of the Place of Safety Orders. Whether the nine children or indeed any of them should be interviewed was not the subject of any debate or discussion. It seems to have been taken for granted that interviews would take place and the question considered by the Social Work Department and the RSSPCC was not whether there should be any interviews but with what resources the interviews should be carried out. The Social Work Department failed to take a clear and specific decision on the necessity to interview the children of the four families, and failed to record such a decision.

14.61 Neither was there any detailed consideration at any point of the purpose of interviewing the nine children. They had not themselves made any allegation of having been sexually abused. Their removal was founded entirely on the allegations made by the W children. It was therefore especially important to determine the exact purposes for which interviews of the nine children were to take place, and to examine the part which such interviews were to have in any wider assessment of the situation which might be planned. Orkney Islands Council Social Work Department, the Police and RSSPCC all failed to consider the exact purpose of undertaking interviews with the nine children and the place of such interviews in any wider investigation.

14.62 Neither Orkney Islands Council Social Work Department, the Police nor the RSSPCC undertook detailed planning for the investigation of the allegations and in particular for the part which interviewing of the nine children might play in that investigation. The precipitate speed with which the Social Work Department determined upon the removal of the children and their preparation of that left little time for strategic planning of the interviews and beyond the making of administrative arrangements little was done in the way of planning of the conduct of the interviews themselves. The planning should have covered not only the adequacy of resources to carry out the interviewing but also the working out of a joint strategy for the conduct of interviews, involving consideration of such matters as purpose, available facilities, recording, including the procedure for transcribing, the ownership of any tape recordings, the methods of communicating reports and the methodology and techniques to be used at interview.

14.63 Above all attention should have been given at the stage of planning to the possible need for a more detailed assessment of any or all of the children and in particular of their mental and developmental status. This was a failure which had already occurred in relation to the W children but here again neither the Social Work Department nor the RSSPCC gave any consideration to the developmental assessment of the nine children or the possible requirement for that. Mrs Liz MacLean considered that she would not be assessing the physical, emotional, psychological or social development of the nine children and was not aware of her colleagues in the RSSPCC interviewing team carrying out any such assessment. A multi-disciplinary assessment in particular of EB, SB, PH and MT would have assisted the interviewers in understanding the significance of the material which arose during interviews with those children. Orkney Islands Council Social Work Department failed to consider the need for a fuller assessment of the children's mental and developmental status at the stage before interviewing commenced and no such assessment was carried out after the children were removed.

14.64 Such planning as there was failed to take account of the workload which was likely to be involved in the interviewing. It is important that interviewers are not overloaded. Investigative interviewing is stressful and specialised requiring considerable thought, concentration and objectivity. Time must be allowed over and above the period of the actual interview for planning, practical preparation, discussion, reflection, recording and joint and individual supervision within the interviewers' overall workload. The number and the timing of the interviews must be planned to allow for these other elements in the work. Neither the Police, the RSSPCC nor the Social Work Department planned to allow adequate time for this. Interviews on occasion, such as with the B girls, followed each other in close succession. Mrs MacLean's willingness to accept a very substantial burden and her management's ready acceptance of such willingness set the tone for the RSSPCC's failure to recognise that, on the basis of workload alone, the interviewing of the nine children might run a considerable risk of being conducted

in a less than satisfactory manner. There was a failure by managers to plan and then monitor interviewers' workloads and ensure time was available to be spent on the various activities which are essential in interview work.

14.65 Furthermore there was no planning for any regular reviews of the interviewing, and indeed no such reviews of purpose or material emerging took place. In some interviews it was hard to separate the expression of fantasy and reality by a child. In such cases a full review would have allowed a decision to be made as to whether further investigative interviews should take place. The results of the medical examinations should have had a bearing on the strategy or the form of the interviews but no review was prompted on that account. Orkney Islands Council Social Work Department, the Police and RSSPCC failed to set up regular reviews of the interviewing and of matters emerging from interviews.

(B) THE JOINT APPROACH

14.66 Although Orkney Islands Council and the Northern Constabulary recognised the importance of a joint approach to the investigation of child sexual abuse, there was inadequate joint planning between the Police and the RSSPCC for the interviewing of the children of the four families. This inadequacy was manifest at senior management level and at the level of individual interviewing teams. The Police and RSSPCC failed to undertake adequate detailed joint planning for the interviewing of the nine children and the individual interviewing teams failed to carry out adequate joint planning for individual interviews.

14.67 While the co-interviewers generally appeared to relate well to each other there was in fact little in the way of an overall joint approach. There was no agreed policy on planning for interviews and as to who was in charge of joint interviewing, either at management level or within each interviewing team, and consequently there was poor co-ordination of interviewing techniques, recording of interviews, and assessment of the interviews as they proceeded. There was no joint supervision of interviews. The Police interviewers considered that their role in interviewing was the collection of evidence; they felt they had no ability to assess children's behaviour or communications; they did not know of the RSSPCC's methods and they were not in a position to monitor, let alone challenge the methodology of their RSSPCC colleagues.

14.68 The Police officers taking part were all aware that evidence gathering was to be a key element in the interviews in which they were to be involved, but how that work would relate in practice to the assessment and support which was the RSSPCC's professed purpose of the work was not the subject of detailed consideration. The agencies lacked a sufficient degree of mutual understanding to secure that they were fully working together.

14.69 Moreover, there was no sufficient appreciation by Orkney Social Work Department, the RSSPCC or the Police of the need to plan the method for assessing the work which was being done or the lines of communication by which the work would be reported to the Social Work Department or the Police. In the event no plan was made for assessing the work and the lines for reporting between the agencies.

(C) THE INTERVIEWS

14.70 Since the RSSPCC had already been involved in providing interviewing resources to Orkney Islands Council, in relation to the W children, it was obviously convenient that the RSSPCC would undertake interviewing of the nine children. But neither the senior managers in Orkney Islands Council, the Police or the RSSPCC considered fully the need to employ for the interviewing of the nine children workers who had not previously been involved with the W case. Some reservations about the continuation of work by Mrs Liz MacLean, Miss Lindsey Stevenson, and Constable Linda Williamson may have been entertained but the dangers of employing the same interviewers should have been appreciated and alternatives should have been explored. The Social Work Department, the Police and the RSSPCC failed to consider fully the propriety of utilising the interviewers who had previously been involved with the W children.

14.71 The persons interviewing the nine children were charged with a difficult task. The interviewing of children where allegations of sexual abuse have been

made is a highly specialised and complex task, the more so when there are suspicions that abuse may be occurring more widely than within one family. However, the experience and training of the RSSPCC interviewers was very varied. Mrs Liz MacLean had considerable experience in interviewing, but no extended training, and no training in depth in evidential standards. Miss Lindsey Stevenson had only limited training in interviewing. Mr Leslie Hood had no experience of joint interviewing, and very little training specifically oriented to child sexual abuse. There was no evidence of a systematic approach to the training of interviewers within the RSSPCC. There was a lack of detailed appreciation in the RSSPCC management of the varying standards of training which had been attained by the RSSPCC interviewers and there was at least some deficiency in the skill and experience required for the work on which they were engaged.

14.72 Furthermore RSSPCC practices demonstrated a lack of senior management control and at best, a limited appreciation of the complexity of child sexual abuse cases. The RSSPCC had made efforts to obtain expertise in the field of child sexual abuse management but their extensive agency guidelines contained little regarding actual interview practice. There was a desirable flexibility in working practice, but this very flexibility meant that principles of good practice were not always adhered to with a generally poor standard of record keeping in the case of the nine children. There was little evidence of debate about practice. RSSPCC management failed to exercise adequate control over the practice of staff interviewing the nine children.

14.73 Within the RSSPCC management and personnel, supervision was quite inadequate. There was a lack of management direction and no satisfactory channel of communication was worked out for the interviewers to relate to the case manager. There was a lack of any clarity as to whom Mrs Liz MacLean was accountable. Mr Sam McTaggart considered that no-one was responsible for supervising Mrs MacLean. He considered that Mrs MacLean was managing the RSSPCC interviewers at Strathaven, although Mrs MacLean's view was that Mr McTaggart was responsible for that management and had indeed taken it over, in order to allow her to conduct a greater number of interviews. The interviewers picked up such support and supervision as they could and while they considered it satisfactory it lacked sufficient systematic detail. Furthermore the lack of definition in Miss Janette Chisholm's role gave rise to the undesirable situation of one who was working with the W children also giving support to those working with the nine children. The RSSPCC management failed to establish a clear system for supervision and support of the RSSPCC staff and failed to appreciate the significance of Miss Chisholm's role in providing support to the interviewers and in particular to Mrs MacLean.

14.74 It was the practice of the Northern Constabulary to ensure that women Police officers had some training in the management of sexual abuse and other sexual offences. All those officers involved in interviewing of the nine children had attended one or more such training opportunities, although the extent of the training varied in detail and in the proportion devoted to interviewing children. The joint approach to investigation had been instigated by the Northern Constabulary in 1989, but no great account was taken of the implications of this as regards the varying experience of interviewers from Police and other agencies working together nor of the possible advantages and disadvantages of such joint working. Moreover, the Police officers had not been adequately trained in the matter of the differing evidential standards required in Section 42 hearings before the Sheriff, as compared to criminal prosecution. There was also a lack of training on such matters as dealing with third party allegations, and situations where a child denied or retracted allegations. The Police failed adequately to consider the implications of the joint approach for their officers in interviewing work or the level of training in the interviewing of children which those officers required. The Police interviewers of the nine children were inadequately trained for the work they were required to undertake.

14.75 As with the RSSPCC staff, the supervision of the Police interviewers was inadequate, consisting largely of a reporting back by interviewing officers to their superiors rather than direct supervision. There was a lack of guidance by senior

officers to the Police interviewers on the techniques of interviewing and the assessment of interviews. The Police failed to provide supervision of their interviewing officers beyond the level of reporting.

14.76 It was standard practice during interviews with the nine children to have two interviewers working with each child. While this was undoubtedly appropriate for the majority of the nine children, and indeed essential at times, as for example in the case of SB, SM's behaviour did not necessarily warrant the presence of two interviewers. Constable Anne Miller conducted one interview with JM at her own suggestion, and it is unclear whether the introduction of a third interviewer for this child, albeit on only one occasion, was in any way justified despite her having been involved in early interviewing of SM. There was a failure adequately to consider how many interviewers required to be involved with each child during the interview process.

(D) **BACKGROUND INFORMATION** **14.77** As regards the background information available to the interviewers of the nine children a distinction should be made between information about the allegations made by the W children and information about the family and individual history of the nine children. Both kinds of information were inadequate in content. The varying levels of information about the allegations which interviewers possessed should have been considered by managers and decisions made as to what information was desirable for all interviewers. The failure to appoint a case manager and to spell out that person's role in relation to information gathering and dissemination meant that the problem remained unresolved. There was an over-emphasis placed on a fear of contaminating information coming from children in interviews if the interviewer had too much information. But that anxiety should not have been equally applied to the two kinds of information. Background information about the nine children should have been shared as fully as possible with the interviewers to assist them with setting what a child said in an interview in the context of the child's family history and his or her own age and stage of development. Detailed information about the allegations should not necessarily have led to accusations of evidence being contaminated unless interviewers pursued it in an emotionally intensive way. There was a failure by managers to clarify the kind and extent of background information which the interviewers should have in order to protect them from any accusations of contamination or bias.

(E) **RELATIONSHIP BETWEEN CARERS AND INTERVIEWERS** **14.78** The managers in the Social Work Department, the RSSPCC and the Police should have planned the appropriate relationship to be developed between the interviewers and the carers for the nine children. The anxiety of the interviewers to preserve what they saw as the necessary open-mindedness in interviews and to avoid the danger of contamination meant that the interviewing was not fully co-ordinated with the care arrangements for the children and led to a loss of information to the interviewers about the children in their care placements. The idea of trying to separate interview work from the work of caring for the child had little to commend it. Foster carers and residential staff held valuable information about children placed with them which should have been used in the overall assessment and interviewing of the children, but it was left uncertain who was to gather such information so that there was a risk of loss of individual information from carers which could have been of value. The feelings of distance and lack of worth experienced by the foster carers in Strathclyde were not adequately acknowledged and the attempts by Geilsland School to become more involved in interviews should have been more fully explored by the case manager and co-ordinator. There was a failure by managers to clarify the part which the interviewers should have in decisions about access and correspondence with the result that for example clear guidance could not be provided to JM when he was looking for a decision about sending letters home. The managers of all the agencies involved should have considered and planned the relationship to be developed between the interviewers and the carers for the nine children.

(F) **FACILITIES** **14.79** While the facilities used for interviewing the nine children were adequate and suitable it was noted that there is a scarcity of facilities for recording interviews

in specially adapted or constructed video suites in Scotland. Strathaven was well equipped with both video and audiotaping facilities and was a suitable interview location. Dalneigh was appropriately anonymous and did have adequate audiotaping facilities. The problems of available care placements linked with the noted lack of interview facilities limited Orkney's choice of interview locations.

(G) RECORDING **14.80** Planning for the interviewing of the children from the four families required to cover the question how interviews were to be recorded. There was a lack of any direction by the Social Work Department, the RSSPCC and the Police prior to the series of interviews about how recording was to be undertaken. The interviewers were not clear about the instructions they were given and whether audiotaping was to start immediately interviewing began or after the children had settled. There was a failure on the part of the managers to ensure that interviewers were clear about when recording was to be attempted and by what method. There was no mention of the importance of full interviewer notes in all cases from any manager, apart from the information given to the RSSPCC staff by Mr Sam McTaggart at the meeting on 4th March 1991. But some uncertainty remained about the precise directions which were then given about the nature of recording. There were inadequate instructions given by managers in any of the agencies involved with regard to the method and nature of the recording of the interviews.

14.81 Recording is an integral part of interviews with children. It can take a variety of forms but the basic requirement is for consistent, adequate records be they notes, audiotapes or videotapes. There was a clear intention on the part of managers at the start of interviews with the W children that video recordings were to be made, with audio recording where video was not feasible. However there was no monitoring by the Social Work Department of the actual records made to ascertain that these expectations were being fulfilled. That there should have been a full record of the critical interviews with the W children which contained the allegations leading to the removal of the nine children has already been a matter of critical comment in Chapter 13.13 to 13.15. In the present context it may be observed that the managers of all the agencies involved should have secured that full records were being made when the RSSPCC and the Police were conducting any joint interviews. In undertaking investigative interviews it is of great importance that recording facilities are available. Particularly when investigations were of a complex nature and when opposition to the allegations was clearly expressed, efforts should have been made more strenuously to have video or audio recording available before any discussion of the allegations took place with the nine children. It was recognised in the course of the evidence and it is reflected in the submissions by the RSSPCC and Strathclyde Regional Council that video recordings of good quality provide the most satisfactory way of recording all that occurs with a child during an interview. The attempt made at videotaping of one of the W children on 27th November 1990 was regarded as a greater failure than in fact it was. Despite the value placed on video recordings, the interviewers failed to attempt further recordings after November 1990. While the technique involves some problems in its management further consideration should have been given to the use of video equipment not only for the interviewing of the W children but more especially for the nine children when the reasons alleged for discontinuing the use of the video camera were clearly of significantly lighter weight.

14.82 The quality of audio-tapes of interviews with the nine children was variable. Although a number were quite satisfactory, others were at least in part difficult to hear. The points of commencement and termination of recording at times appeared not to be clearly determined. The interviewers occasionally permitted children to leave the room where audio-taping was taking place, and although one may sympathise with this flexibility of approach on their part, the subsequent lack of audio-taping in such circumstances, if the child was in a part of the building in which recording equipment was not available, serves to emphasise the necessity for the most rigorous complementary written record. Further it was unfortunate that the interviewers did not start to record the interviews from the outset of the series. The absence of an audio recording of the first

meetings with for example PH and TH added to the difficulty of assessing their later interviews. There was a failure by managers and interviewers to secure a complete record of all that passed at the interviews so that the information was clear and credible and could if necessary stand up to cross-examination in any court process.

14.83 The transcribing of audio-tapes of interviews proved, as could have been anticipated, a considerable task. It was time-consuming and was by no means always carried out directly after an interview had taken place. Thus it was not possible for those who should have been assessing and reviewing the interviews and evaluating the material emerging from them to have access timeously to full transcripts. Problems also arose regarding the right to the tapes. The Social Work Department, the Police and the RSSPCC management failed to devise a properly co-ordinated approach to the need for prompt transcribing of audio-tapes of the interviews.

14.84 Although notes were made of some of the interviews, these varied widely in content and in descriptive quality. There was even inaccuracy, as in the report of JM's interview of 28th February. There was no systematic 'process recording', that is to say a full and detailed narration made immediately following an interview of the substance, style and content of the session, including clear recording of the inter-action between interviewer and child and full description of a child's mood and behaviour, the use of drawing and play materials and the emotional impact on the interviewer. Interviewers were given no directions by seniors that such full records would be required. Most of the interviewers felt that the notes they took were in line with their manager's wishes and were given no indication they were not satisfactory. Senior managers failed to recognise the crucial importance of such full records in the overall investigation of the allegations, in the assessment of the child and in monitoring the interviewers' actions in the interviews. There was unanimity among Police interviewers that the purpose of records in Police notebooks is for evidence gathering. But although they were engaged in a joint exercise with the RSSPCC, they were not advised about any more extensive form of note keeping which would be of use in such interviews. ADSW in their written submission (paragraph 3.13.3) recognise the need for interviewers to make a written record immediately after an interview including the statements made by the child, observations of behaviour and interview opinions which may determine further enquiries. To be able to compile a full process recording after an interview requires experience, time, skill and concentration. It is possible for trained and skilled interviewers faithfully to recall a very substantial part of an interview with accuracy but the task of preparing such a detailed process recording demands time between interviews so that the record can be immediately set down. There was no recognition by managers of the lack of experience of the majority of the interviewers in any detailed recording method and there was no effort to assist interviewers to make adequate written records of the interviewing. Drawings were an integral part of many of the interviews and from the records several children engaged intently in this activity. The importance of drawings if they are to be used as part of overall evidence gathering is diminished if it is unclear how the drawings have been created. There was insufficient attention paid to recording how drawings were created, and in particular who had created them, and to labelling them accordingly.

14.85 While interviews with the child are only one part of working with that child, records should cover more than the direct interview. The absence of records of interviewers' contacts with carers, of discussions with senior managers or of discussions with co-ordinators leaves an incomplete picture of the child in relation to the interviewer. Strathclyde Regional Council in their submission recognised the value which should be placed on information from carers and on their part in the overall work with the child. There was a failure in working with the nine children to collate the range of information and contacts which came to the interviewers. The appointment of a case manager with a precise role could have supplied that deficiency.

(H) **METHODOLOGY 14.86** The methodology of the RSSPCC interviewers, subsumed in general terms under the heading of assessment and support, may have been suitable for use in situations where clear medical evidence of abuse existed or where an admission of abuse had been made by the perpetrator. But as no other technique was available to them it was not open to the RSSPCC interviewers to make a choice between that, and other interviewing techniques. They had no adequately clear instruction from their own management or from the Social Work Department as might draw their attention to such an important matter as choice of technique. They relied on what they had come to regard as a tried and trusted method of interviewing, without any real awareness that techniques of a type specifically suited to investigative interviews might better serve the present situation. Indeed without any review being made of the direction they should take there was an evident tendency for the interviewers to modify their approach towards a more therapeutic style of interviewing. The Society's interviewers were understandably and rightly anxious to conduct interviews with the nine children in a warm and kind manner. They were genuinely and humanely concerned for the children and they were aware of the general difficulties of working with children who may have been abused. These factors must have contributed reassuringly to a view of their methodology as being wholly appropriate to the interviewing of the nine children. The terminology 'assessment and support' with its emphasis on the development of a relationship between interviewer and child and on the enabling of a child to communicate gives the impression of a technique which is at least as much designed for therapeutic purposes as it is for the purposes of investigation. But the need in the case of the nine children, as it had been at least in the latter interviewing of the W children, was for investigative rather than therapeutic interviews. The technique of assessment and support was in these instances misapplied. The RSSPCC and the Social Work Department failed to consider the appropriate technique for interviewing of the nine children and allowed the use of the standard RSSPCC approach of assessment and support which was inappropriate for investigative work.

14.87 The interviewers tended to pursue matters of central concern to themselves. Thus with MT the interviewers tended to adhere to their own agenda from 5th March onwards, by returning to drawings previously executed, although for example on 7th March MT appeared somewhat uncertain of some of the material referred to in this way. MT had made drawings at the start of the interview on 5th March, but the subject of those drawings was not in fact followed up by the interviewers, even when MT appeared keen to return to that particular subject towards the end of the interview. During the interview with PH on 3rd March the interviewers returned to matters discussed two days earlier, although PH was on the whole not brought back to the interviewers' own agenda to an excessive degree. Mrs Liz MacLean agreed in evidence that the interviewers had returned to their own themes at times with PH. TH's agenda on 7th and on 12th March was not adequately followed up in relation to events happening in England; she was brought back to the interviewers' agenda and tended thereafter to withdraw. When material which required to be taken very seriously, and which deserved the most careful study, emerged during interviews with a number of the children, the interviewers did not as a rule ignore such material. However there was a general tendency for them to pursue their own agenda when the material offered by the child did not immediately correspond to that agenda. The interviewers failed on occasions to pursue matters raised by a child and were unduly concerned with their own agenda.

14.88 A particular problem which arose during the interviews concerned the approach to be taken by the interviewers to a child's denial, when confronted with an interviewer's understanding of the broad outline of the allegations. Lack of planning on how to deal with such a denial was especially evident in, for example, early interviews with the B children when, as with EB, the interviewers found themselves in some difficulty as to how to proceed when faced with her repeated denials. Although Miss Lindsey Stevenson's view was that the B children required an explanation of the allegations, in particular because of her uncertainty as to how much they might have learned from media coverage of the uplift, her aim of

achieving an open and honest start to the interviewing was misdirected, although doubtless conceived through a genuine concern to be helpful to the children. The interviewers failed to plan adequately how to deal with a child's denial of allegations and failed to respond appropriately.

14.89 The handling of denials illustrates the extent to which the interviewers did not maintain an open mind. The introduction, at the outset of the interviews, of considerable detail of the allegations such as occurred with the B children and with WB in particular, rendered for example the interview with WB invalid as an investigative exercise. The introduction of explicit information by the interviewers negated any spontaneous information which might later be given in a series of interviews. Indeed Dr Trowell identified this first interview with WB as 'a superb example of how not to do an investigative interview' although she also expressed sympathy and understanding for how the situation had arisen. There was no evidence of any discussion with the interviewers' supervisors, or with the case manager, as to how interviewers might introduce the matter of the allegations. The interviewers and their managers failed to discuss and plan together the introduction of explicit information to a child with the result that it was inappropriately introduced.

14.90 Moreover, stress on the interviewers' belief that allegations were true might very easily have led children to consider that there was little point in saying anything at variance with what the interviewers had said, as they might feel that they would not be believed. As a general rule, there is no justification for giving so much information about allegations. As Dr Trowell stressed, it is more appropriate to give minimal information in early interviews, and give more at a late stage if absolutely necessary. The extent to which the interviewers of the nine children maintained an open mind in other respects is illustrated by Constable Anne Miller's observation to SM that she hoped he would be able to tell someone if, as the interviewers believed, he had been abused. At the interview with JM on 5th March, the interviewers introduced their belief that something had happened, but nothing was forthcoming from the child. Constable Pamela Ross recognised that the interviewers on occasion indicated an absence of an open mind.

14.91 The reintroduction to a child of a drawing made at a previous interview, or a previous series of interviews, was a technique used quite frequently, for example, in the interview of 5th March with TH. The interviewers did not discuss the use of this approach beforehand, and should have done so. The technique requires considerable care, and its use in investigative interviews should only take place after attempts to obtain material by open questions have been exhausted, and even then only if the information which it is anticipated may be obtained appears to the interviewers, following full consultation with other interested parties, to be essential. The interviewers failed to give adequate consideration to the techniques of re-introducing drawings and inappropriately reintroduced them.

14.92 The use by an investigator of leading questions to elicit information is recognised as evidentially hazardous. Leading questions were asked during many of the interviews with the nine children, by the RSSPCC and Police interviewers. Thus for example at an early stage in interviews with SB, the interviewers used such questions when introducing such matters as children being hurt, the circle, and a gathering of people. There was no clear anticipation of the need to use such questions and as a result their use contributed to a lack of precision and refinement in the way in which the interviews were conducted. While the use of leading questions may in some particular circumstances be unobjectionable the interviewers failed to plan adequately for the use of leading questions and to restrict their use appropriately.

14.93 The introduction by Constable Susan MacLaren at the interview with TH on 5th March of certain personal information made it difficult to know thereafter how much emphasis to give to the remainder of the material which TH gave, and may have unwittingly closed off an area of exploration. It would have been preferable to follow TH's expressed hate of church with open questions, and indeed Mrs Liz MacLean did attempt to return to the topic at a later stage. Similarly the response from Constable MacLaren that she did not think TH really did hate her teacher had the effect of preventing further exploration of that matter. The

introduction of such personal material, although on these occasions done with good intent, is seldom other than detrimental to the course of an investigative interview with a child, and may have seriously distorting effects in what the child subsequently says and does. Constable MacLaren failed to recognise the problems inherent in the introduction of personal material during the interview with TH on 5th March.

(I) PROGRAMME **14.94** The number of interviews to be undertaken with the nine children appeared to be left to depend on the apparent progress, or lack of progress, which a child made in forming a relationship with the interviewers, rather than being made to correspond with a precise timetable restricting the number of investigative interviews to be carried out. The nine children underwent variable numbers of interviews, and there was no advance planning of a timetable. The Social Work Department, the RSSPCC and the Police failed to determine in advance the appropriate number of investigative interviews to be undertaken and to plan a timetable for the interviews.

14.95 The attitude of the interviewers was that interviews were to be conducted at the children's own pace. But that obviously desirable objective need not conflict with the setting of a timescale in advance. During a series of investigative interviews a clear purpose and direction for each interview requires to be specified. It is not sufficient simply to allow matters to follow the child or to wait for the child to decide on areas of communication. The lack of strategic planning in relation to the interviews of the nine children meant that there was no clear strategy for continuation of investigative interviews so that the interview process could drift on as relationships were being established. While children will need a varying number of interviews to begin to feel safe, it is for a planning meeting to decide how many investigative interviews are required. The interviewers and their managers failed to give adequate consideration to the need for investigative interviews to be at least in part paced according to the interviewers' requirements and they failed to fix a clear timescale for the interviews.

14.96 The duration of individual interviews with the nine children varied greatly. Interviews with PH, for example, lasted between eleven minutes (21st March) and sixty-five minutes (14th February) The variations in time were not predetermined and reflected the child's capacity for interview and the interviewers' own response to the prevailing circumstances.

14.97 A number of the children were interviewed very intensively. There was no evidence that the scheduling of the interviews was deliberately related in a planned manner to the anticipated section 42 hearing. Thus EB underwent ten interviews in three weeks, four of them in the first week, and three in each of the subsequent two weeks. The pressure on the child may explain at least some of EB's activity, and her tendency to leave interviews. This effect of pressure should also have been recognised and explored in the case of SB who was similarly interviewed very frequently, having ten interviews spaced in a similar manner to those of EB. Some of his abusive behaviour may have been a response to pressure. Had a multi-disciplinary assessment been carried out on these children, as is suggested elsewhere in these comments, a break in interviewing would thereby have been possible. WB experienced pressure during the first week of interviewing, given her strong denials and that she was shown drawings done by the interviewer. PH, who underwent ten interviews, was certainly seen too frequently. For this child in particular four structured interviews followed by a review would have been appropriate. In fact PH underwent four interviews in the first week, two in the second week, and four in the third week. His schedule of interviews was also irregular in that he was interviewed at different times of the day, although Mrs Liz MacLean considered that it was not absolutely necessary for a child always to be seen at the same time of the day. But with this child, such a small additional element of structure could have been helpful. The frequency of interviews of TH also put considerable pressure on her, and may have led to uncertainty and anxiety on the part of the child as to what was expected of her. The schedule of her interviews was also irregular, with times of day for the interviews varying.

14.98 A better and more appropriate frequency and spacing was achieved with JM, although in the case of his brother SM the frequency of interviews on alternate days over the first four interviews did introduce some pressure. This may however have been of less significance for SM in light of his age. There was some pressure of interviewing on BT, who was interviewed four times in the first week, but thereafter there was a considerable gap until 21st March. The interviewers indicated to BT on 7th March that they wished to see him weekly, although BT had said he did not like going to interview. However as the frequency of interviews then became less intensive, BT's wish not to attend was to some extent respected. The frequency of interviews of MT was intermittent. On at least one occasion she was seen late in the day, and greater consistency and regularity would have been more appropriate. Investigative interviews make considerable demands on children and can be experienced as pressurising, possibly causing uncertainty and anxiety on the part of a child as to what is expected of him or her. While it may be appropriate to vary interview frequency with the age of a child, where investigative interviews were intended more than two interviews per week per child should not have been arranged without careful planning. The Social Work Department, the RSSPCC and the Police failed to determine the frequency and intensity with which interviews were to be undertaken with the result that for some children the numbers of interviews held were excessive.

(J) **CONSENT** **14.99** While the interviewers had some consciousness of a need to have a child's consent to interview the reality of the consent is open to question. A child's reluctance to attend the interview was recognised and accepted and there was no attempt at compulsion to attend. But on the part of some at least of the children the attitude was one of acquiescence rather than active consent. What is open to criticism is the failure by any of the agencies to explain fully to the children what the purpose of the interviewing was, that the interviews were being recorded and that what was said by the children would be passed on to others and might be used in evidence.

(K) **CARE** **14.100** In general, arrangements for the children's attendance at interviewing were satisfactory except in respect of the B girls, where their joint placement with one foster carer led to her being especially overburdened during the girls' attendance at Strathaven. Arrangements for the children's care at interviewing centres were also satisfactory, minor difficulties only arising in respect of refreshment.

14.101 The interviewers all demonstrated care and concern towards the children with whom they were dealing. Such an approach was evident, for example during the initial interviews with EB and SB which were conducted despite aggressive behaviour. Similar warmth was shown to WB, although her attitude appeared angry and hostile at times. The atmosphere during interviews with PH was relaxed, although the child's feelings about being away from home were not explored at any length. The interviews with TH were also conducted in a concerned and friendly manner with efforts being made to help TH to settle although some particular moderation of the questioning of TH on 7th March might have prevented the child from becoming distressed. However it was clear that TH did in general settle at interview and that she was happy to return. During MT's interviews much genuine friendliness was evident on the part of the interviewers. BT's distress was fully taken account of by the interviewers who tried to comfort him. The conduct of the interviewers of SM and JM was appropriate throughout.

V. The Closing Stages

14.102 So far as the return of the children was concerned the general feeling of the social workers on the mainland who were involved with the children and of the foster carers was that the return of the children was too precipitous. There was no time to prepare the children for the change and to adjust to the news. There was no time for medical examinations to confirm that their health had not suffered while in the care of the foster carers. However although by normal standards the

return was managed at an undue speed the decision to achieve an immediate return cannot reasonably be criticised in the circumstances. Given the decision of the Sheriff and his stated opinion that the children should be returned, the attitude of the Acting Reporter and the prevailing climate of opinion, Mr Lee was certainly justified in instructing every step to be taken to have the children returned without delay. Nor can the parents who were themselves clamouring for a quick return criticise him for risking any disturbance to the children at the sudden removal from their foster care back to Orkney.

14.103 Mr Sloan believed the effect of the Sheriff's decision was to terminate the Place of Safety warrants although that does not seem to have been the view of the Sheriff. To have sought to retain the children in places of safety either by arguing that the warrants still stood or by obtaining further Place of Safety Orders was theoretically possible. But such a course could reasonably have been expected to have produced even greater public outcry than had been so far demonstrated. In the face of the Sheriff's own indications that the children should be returned, absence of any support from Mr Sloan for the obtaining of new warrants and the insistence by the parents and their supporters that the children be returned, it could not be said to have been unreasonable for Mr Lee to have instituted their return.

14.104 The grounds on which the decision to abandon was taken were open to debate. They rest to a significant extent on predictions about the effect of the Sheriff's decision and its publicity on the evidence of the W children and the nine children and the prospects of securing that evidence after a period of time during which the nine children would have been at home and the W children no longer entirely isolated. It was by no means certain that if there was evidence to support the Acting Reporter's case it would have been tainted or irrecoverable. The Acting Reporter appears to have reacted to the Sheriff's comments with a complete loss of any confidence in making any step towards the protection of the children although he still professed a belief that they were in need of compulsory measures of care. It is not easy to reconcile his belief that the grounds for referral were well founded with his despair of the case.

14.105 The decision to abandon the proceedings was in the event a most unfortunate one. The one issue which many people wished to have settled was left in the air. It was excluded from the Public Inquiry. While in the written submission on behalf of the Acting Reporter it is submitted that the suggestion that a section 42 proof might have 'cleared the air' is quite ill-founded and while, as is explained in the submission, suspicions might have lingered, it cannot seriously be maintained that a proof would not probably have gone some way to resolve anxiety. It is to be regretted that in a case of such public interest the Acting Reporter did not take further consultation with the agencies involved, especially the Social Work Department, before deciding to go no further. While each agency involved in cases of child sexual abuse has its own function, role and responsibility discussion between the agencies is an important element in successful management and while reserving the responsibility of the decision to himself the Acting Reporter would have been wiser to have consulted more widely before deciding to abandon. There were a number of parties who were clearly interested in a judicial investigation of the facts, among them the Social Work Department, the RSSPCC, the parents and the children themselves. The Acting Reporter was of the view that the children were in need of compulsory measures of care and if he held that belief it is unfortunate that he did not persist in the proof in the interests of the children and that he announced his determination not to do so before the appeal concluded.

14.106 At the very least it was unfortunate that he reached a final determination to abandon as precipitately as he did. There was no necessity to act at such speed and there was ample opportunity to canvass the opinions of others. Delay would have enabled a mature consideration of precisely what it was that Sheriff Kelbie had said. Delay until the outcome of the appeal would have resolved the problem about a hearing before a different Sheriff. While a decision was not formally reached until 8th April Mr Sloan's mind on 4th April appears to have been at the least moving towards such a conclusion. He had left the preparation of the case to his legal advisers and he was aware that his senior counsel had already indicated that the position might have to be reassessed after all the children had given

evidence. He was also aware of her anxiety about the conduct of the interviews. But even if he was advised that the prospects of success were remote the case was not one which called for precipitate abandonment and he acted too hastily in deciding that even if the appeal was won the proof would not proceed. It was not wholly certain what in fact had been the effect of the publication of Sheriff Kelbie's observations. The Court of Session opened the way for a proof before another Sheriff.

14.107 While each of the reasons put forward for abandoning the case is open to question and to difference of view it appears that there were storable reasons for it and the decision as viewed by a lawyer assessing the prospects of success may well have been justifiable. But in the circumstances of the case it was a decision to be reached in wider considerations than the technical assessment of the strength of the evidence and from the practical viewpoint of the interests of all those caught up in the affair the decision was mistaken.

14.108 It would be unreasonable to be critical of the reactions of the parents in so far as their comments on the removal of their children were concerned but it can at least be noted that their refusal to deal with Mrs Susan Millar or Mr Charlie Fraser did not assist in the arranging of direct communication with a small department. Moreover it would not be appropriate to leave out of account what may not unreasonably be described as a campaign of ridicule and abuse which was mounted against the Social Work Department by the parents' supporters, seeking primarily the return of the children, although that was a matter which was being processed through the established machinery of the law. It was easy to believe that the clamour was intended to have some effect on that process. The campaign attracted the increased attention of the media and did not help towards constructive dialogue or a good relationship between the department and the parents. So far from assisting the parents and the Social Work Department to work together the campaign merely served to secure a strained relationship and added to the difficulties of the case. It did not usefully contribute to the course of the legal process under which the children were eventually returned.

14.109 One facility which the parents did not have was any clear procedure for pursuing complaints to the local authority if they felt aggrieved at any actions of members of the local authority. What should have existed was some easily identified medium for complaints to be aired and resolved. Since these events however a complaints procedure is now in place.

14.110 It is not easy to find any individual at least among the principal actors out of the whole story of the events relating to the removal of the nine children who is not open to some criticism. However there is little to be gained in a retrospective view which looks merely to winners or losers among the very many steps and incidents which occurred throughout the passage of these events. The purpose of this Inquiry has not been to find guilt or innocence or to distribute praise or blame but rather in recognising that things may have gone wrong to endeavour to learn from past mistakes and to make suggestions as to how such mistakes may not be repeated in the future. I turn accordingly next to consider what recommendations may be made arising out of the events which have been canvassed and discussed in the Inquiry.

PART FOUR RECOMMENDATIONS

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XV CHILD PROTECTION

I. Child Sexual Abuse

- (A) INTRODUCTION **15.1** The Inquiry has been concerned with matters of child protection. More particularly the Inquiry has been concerned with alleged child sexual abuse. While the consideration given to that subject here cannot pretend to be comprehensive some aspects of general application have arisen and form the substance of the recommendations which follow.
- 15.2** In setting out the principles within which revised legislation and guidelines on child protection should be considered, reference should be made both to the European Convention on Human Rights and to the UN Convention on the Rights of the Child ratified by the UK Government on 16th December 1991. The Scottish Child Law Centre drew attention to the latter Convention and in particular to Articles 3 (all actions concerning a child to take account of the child's best interests), 12 (the child's right to express opinions and participate in proceedings) and 37(d) (the right of a child deprived of liberty to prompt access to assistance), noting that the UK added a qualification to Article 37(d) to avoid the introduction of inappropriate adversarial elements to the Children's Hearing System. Others have also drawn attention to Article 16 of the UN Convention (protection from arbitrary interference with privacy) and to Article 8 of the Convention on Human Rights (right to respect for private and family life and correspondence) and to other Articles of both Conventions. Professor Bissett-Johnston has also stressed the need to take account of the provisions of the Convention and has pointed out that the statement of the UK's reservation in relation to Children's Hearings is not beyond critical comment. He notes among other matters that a reservation in stating that a child may be deprived of its (sic) liberty for up to seven days prior to attending the hearing glosses over the fact that a child may well be detained for more than seven days without a hearing to test the evidence allegedly warranting his or her detention. The general approach should be one which looks to parental responsibilities rather than parents' rights and which thus recognises the positive rights of the child, including the child's right to be a child.
- 15.3** While the consolidation and reform of all matters of child law in Scotland might delay the immediate introduction of changes in the particular area of child protection the Scottish Child Law Centre have also submitted that the time has now come for an integration and co-ordination of the results of the various inquiries and investigations into different aspects of child law in a Children Act for Scotland starting with a statement of principles drawn up for the UN Convention. These principles should then be carried through the various particular areas of the law relating to children to ensure a consistency of approach. If such a consolidation of child law was achieved consideration could also be given to the production of Guidance and Regulations as has been published in England following on the Children Act 1989.
- (B) TERMINOLOGY **15.4** In the first place something should be said about the terminology used. In this context the definition of the word child given in Section 30 of The Social Work (Scotland) Act 1968 can be applied. The term 'abuse' is understood to cover all forms of ill-treatment or neglect of a child. The abuser will often possess some dominant status in relation to the abused and the word 'abuse' may well imply that the one is taking some undue advantage of the other. In most cases the abuse will arise in the context of a dominant relationship but there may be cases where the element of dominance does not extend beyond the carrying out of the act of

abuse itself. The abuse can occur in a setting where the child is also receiving love and care.

15.5 Child abuse may be described under reference to any of a wide variety of forms or a combination of any of such forms. More particularly it may be classified as physical, emotional, or sexual although in practice these general forms of abuse frequently co-exist. Descriptive labels do however have some convenience as distinguishing different kinds of behaviour which may give rise to different problems in investigation or discovery, to differences in the course of action to be taken against the abuser and to different methods in the provision of relief and treatment for the abused. Thus in professional studies one can find specific definitions of child sexual abuse formulated. For example a definition frequently cited is of the 'involvement or dependent, developmentally immature children and adolescents in sexual activities that they do not fully comprehend and are unable to give informed consent to, and that violate the social taboos of family roles'. (Schechter, M.D. and Roberte L. (1986) *Sexual Exploitation; in Child Abuse and Neglect: The Family and The Community*, ed. R.E. Helfer and C.H. Kempe, Cambridge, Massachusetts: Ballinger.) To this definition Tilman Furniss has more recently suggested an additional qualification 'and which aims at the gratification of sexual demands and wishes of the abuser' (*The Multi-professional Handbook of Child Sexual Abuse 1991*, paragraph 3.1.2). Again in the work of the Oxfordshire Joint Child Protection Committee cited in *Psychiatric Bulletin 1988* (Volume 12, pages 534-540) a definition is given which involves 'the involvement of children by older persons in the following types of sexual activities: exposure, touching of sexual parts, sexual intercourse, and other sexual acts'. As the latter quotation indicates the acts of abuse may vary extensively. They include physical acts which may be causing damage to the child's body leaving some physical evidence of the actings, or acts of physical contact of such a nature as to leave no such evidence, or acts without physical contact where there is no opportunity for any such physical evidence. But the adoption of such descriptive classifications should not divert attention away from the simple realisation that the situation is one of a child who is or has been subject to abuse and from the need to intervene for the protection of that child.

15.6 One categorisation of types of abuse has been formulated by the Joint Steering Group on Management Information which reported in May 1991. This formulation aims to produce standard categories in relation to entry in child protection registers and to facilitate the collection of national data and improve the quality of management information. The categories are five in number - physical, sexual, non-organic failure to thrive, emotional and physical neglect. The register system is part of the arrangements for the care and protection of children and in this particular context a formal classification designed for a degree of uniformity and so achieving a greater value in the register is obviously a necessary element.

15.7 A number of other adjectives were referred to during the Inquiry which had been used in one context or another in relation to the matters which were the subject of the Inquiry. These included 'organised', 'ritual', 'satanic' and 'demonic'. These words have been open to a variety of particular constructions.

15.8 The term 'organised' was used by members of the Orkney Social Work Department early on after they heard of the statements by the three W children in February 1991. The term implies that there has been some element of planning before the abuse has been perpetrated. But beyond that the scope of the organised enterprise may be very varied. While it is possible to conceive of the application of the term to the situation where one adult is engaged with one child the expression is more readily taken to assume a larger number of persons than two. It could be applied when only one adult was involved who made arrangements for access to a number of children in a planned way. The word was however used in the present case to describe the situation where a number of adults and a number of children were alleged to be involved. In that context it covers situations where not all are participants but some are only observers. Paul Lee used the word to describe the situation of an organised network of people engaged in child sexual abuse. The phrase has been adopted and defined in the English guidance document

'Working Together', in respect of cases where a multiplicity of persons may be involved. NSPCC have devised their own working definitions of organised abuse and indeed other expressions descriptive of forms of abuse.

15.9 The form taken in the organisation is also open to wide variety. It could involve the initiative of one individual or a joint initiative by some or all of the group. Thus it can take the form of what is referred to as a child sex ring. There are included here the cases where the children engage in the activities in return for payment. The children may or may not be aware of each other's participation. The abuse may occur within a residential community without the knowledge of the managers. It may equally be organised within a society living disparately. The expression can also include cases where the mechanism of recruitment of children is achieved by the medium of children or others. The description could also include video or photographic recording. The organisation could be simple or sophisticated depending on the numbers of persons involved and the extent of repetition. The adults may or may not be related to each other. Given this wide variety of possibilities it may be questioned how useful this description is. Abuse may be embarked upon by a group of adults with one or more children with no advance planning, intention or organisation but on the spur of the moment. Cases can also occur where the abuse is a by-product of an organised illegal activity such as the dealing in drugs. If a descriptive term is required that the abuse is with more than one child or by more than one adult a more appropriate one might be 'multiple child sexual abuse'.

15.10 The word 'ritual' appears from time to time in the contemporary documentation produced in the Inquiry and had also been used in the course of press reporting. Members of the Orkney Social Work Department did not recognise it as applicable and some were not able to define it with confidence. There is no doubt that the expression 'ritual abuse' is recognised in current literature in the field of child sexual abuse. One usual element of ritual abuse is repetition. The abuse may be sexual, physical or emotional. The ritual may involve the use of symbols or of group activities and there may be elements of a religious, magical or supernatural character involved in the occasion. The purpose of 'ritual' can be to reduce the vigilance of the children, to engage their attention and increase their vulnerability or by repetition to frighten and intimidate them (D.P.H. Jones, *Child Abuse and Neglect* 1991, pages 163-170). The words 'satanic' and 'demonic' were also used in the course of the Inquiry, though not with any relevance to the present case. These are but two further descriptions adding further colour or detail to the concept of ritual abuse. Again professional literature can provide definitions and classifications related to particular studies of child abuse occurring in the context of or accompanied by ritualistic behaviour. On the other hand the idea of such more bizarre forms of abuse is regarded by some with disbelief in such activity. That belief and disbelief is still possible is a reflection on the limited extent of knowledge and validated research so far achieved, although work on this is currently proceeding.

15.11 For purposes of study or research, classifications of abuse into sexual, physical or emotional, or into organised, ritual, satanic or demonic, or into combinations of these, may possibly be useful. A classification for the purposes of consolidating information from the register is plainly a particular necessity. In the context of therapy some classifications may well be of usefulness. There is however still sufficient uncertainty about the extent and nature of any form of group activity in this field that Dr Jones has stated that the use of more specific terms is not only unwarranted at present but may affect the objectivity of practitioners and parents (D.P.H. Jones, *op. cit.* p. 169). In his written submission to the Inquiry he observes 'There does not seem to be a firm distinction between organised and non-organised abuse and the phenomenon is best considered as a spectrum'. However there is a danger in their ready adoption in practice that cases may become so categorised that workers may not appreciate that some common principles may apply in their management. The use of a particular classification may inspire the idea that some greater specialist knowledge or expertise is required than may be the case so far as the social worker is concerned. The apparent mystique which may accompany technical categorisation may deter rather than

assist in the handling of cases by social workers. Each case may present its own individual peculiarities and may call for particular courses of action but the same broad principles should usually be applicable although they may need to be adapted in some cases to particular circumstances. Thus cases involving a multiplicity of persons, whether described as multiple abuse or organised abuse, may call for a high level of management and control and particularly expert handling. But in the approach to the interviewing of children, as Dr Trowell observed, cases of alleged multiple sexual abuse should be dealt with in the same way as any other case of alleged sexual abuse. Moreover the danger of using labels such as 'organised' or 'ritual' may be that they may divert the attention of social workers from looking for assistance from the established guidelines and principles. The NSPCC observed in their written submission that the debate which followed after their first public comment on 'ritual abuse' has polarised between 'believers' and 'disbelievers'. Mr Chant was concerned to stress that in the professional context the issue is not one of belief or non-belief but of assessing what has happened to a child and the gathering of information. It is recommended that in the investigation and practical management of cases of child sexual abuse care be taken to avoid the use of labels without a common understanding of the definition and the purpose of the label.

(C) PREVALENCE **15.12** It has also to be recognised that child sexual abuse is not a rare or occasional phenomenon but a regular incident in a variety of forms and appears to be currently increasing. Data made available to the Inquiry shows that for example in Strathclyde cases with a component of child sexual abuse or in which child sexual abuse was the sole element amount to more than one third of the total. Cases referred to Reporters throughout Scotland show a substantial upward trend in cases of child sexual abuse through the 1980s. Mr Kennedy spoke of 'a rising trend in modern times on a very very huge scale'. There is also evidence of increasing numbers of cases elsewhere. A paper on the Incidence of Child Sexual Abuse in Northern Ireland was submitted by Dr G. MacKenzie of Queen's University of Belfast indicating a high incidence in Northern Ireland. It is however only a very small percentage of cases which progress to prosecution in Scotland or in England. While there have been some indications in Scotland of multi-adult child sexual abuse there is a belief that the incidence is in fact higher than has been currently identified.

15.13 Society has however been slow to recognise and accept the reality of child sexual abuse just as forty years ago there was a general public resistance to the reality of baby-battering. As Professor Bissett-Johnston has pointed out in his written submission it was only probably Dr Henry Kempe's coining of the phrase 'the battered child syndrome' in 1961 which first raised professional and public awareness of the problem. In the 1970s there was resistance to the idea that a parent might sexually abuse his or her child but more recently it has come to be recognised and accepted that intra-familial sexual abuse does occur. Following the same pattern there is still resistance to the idea that multiple sexual abuse of children on an intra-familial basis might occur. Mrs Susan Millar pointed out that such resistance adds strength to the lobby of those who seek to have the existence of such practices denied, or who champion the rights of parents to the prejudice of the interests of children. Dr D P H Jones in his written submission observed that the sheer scale of organised networks of abuse naturally induces a sense of horror and repugnance in professionals and lay persons alike which can lead to a collective denial of the problem.

15.14 The need to protect children from sexual abuse is expressly recognised in the UN Convention on the Rights of the Child (1989). Article 19.1 of that Convention 'States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child'. Article 19.2 provides: 'Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child

and for those who have the care of the child as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment and, as appropriate, for judicial involvement'.

15.15 Child abuse in general and child sexual abuse in particular is no new phenomenon. What is new is the recognition by professionals and more slowly by the public of its existence and its prevalence. In Scotland in 1985 SWSG made a specific reference in their report on child abuse of that year. ADSW in their Report 'Child Protection, Policy, Practice and Procedure' state that official guidance in England and Wales did not acknowledge sexual abuse until 1986. An awareness has been growing of the many varied forms of abuse which children may suffer. That awareness has been sharpened by the development in past years of a recognition of the rights of children and the formal categorisation of those rights. As knowledge and experience grow so the need for wider understanding of the problem increases, as does the need for special skill and sensitivity in its management. The occurrence of multiple or organised abuse involving extra-familial adults and children has only recently come to be noticed in literature. Even the current edition of 'Effective Intervention' did not mention it and 'Working Together' only had a brief paragraph in its earlier edition. Dr D.P.H. Jones in his written submission indicated that the current increase in cases of organised abuse reflects their recognition rather than a change in their prevalence.

15.16 The activity is one which readily shocks and disturbs and it is temptingly easy to turn away from it, to pay no attention and pretend that it is not there. But the encouragement given more recently to children to speak of their experiences and the recognition and subsequent disclosure by adults of their own childhood experiences has begun to show the extent to which to some degree or other young people have in fact been the subject of abuse and what the damaging consequences of such abuse may be. The effects can often be serious and long lasting. A further disturbing consideration is that which was voiced by Miss Janette Chisholm to the effect that a considerable proportion of abusers are found to have been abused as children, and while not all abused children become abusers the correlation is significant enough to demonstrate the likely growth of abuse as generation succeeds generation.

15.17 One clear necessity is for it to be recognised publicly that sexual abuse of children is very far from being uncommon and that is capable of causing significant harm to the child and to society. As Mrs Susan Millar indicated, the first step towards a solution is for everyone to realise that the problem exists. Not only is there a need for more thorough research and training but also for a greater public understanding of the matter and even a more understanding attitude to the problem of striking the balance between the rights of parents and the rights of children. When society inclines to a greater recognition of the rights of children the tendency may be to inspire a more interventionist policy on the part of those concerned to protect a child from possible abuse. The Cleveland Inquiry promoted a recognition of the pre-eminence of the needs and interests of the child but at the same time demonstrated the need for care and sensitivity and caution. Both an unnecessary intervention and a failure to make a necessary intervention are open to criticism but the balancing of the considerations is as uncertain an exercise as the balancing of the rights of the children and the rights of the parents. Given a greater public understanding public debate can be promoted on the kind of protective services which are wanted for children at risk of abuse. It is recommended that steps be taken to increase public awareness of the problem of child sexual abuse and of the difficulties inherent in the work of investigation of child abuse.

- (D) **STRESS** **15.18** Any involvement in work concerned with child sexual abuse, whether suggested or actual, carries with it a particular stress. The subject provokes strong emotions in all those involved in any way with it. These can range, as ADSW described it, from anger, moral outrage, hysteria and disgust to downright denial and disbelief. An individual's own past experience can colour his response. For many the easy course is taken of hiding from the problem as something which only concerns others. While in the present case some of the social workers involved

disclaimed any feeling of stress others were undoubtedly affected. Certainly the case created very considerable stress on the Orkney social workers and particularly on Mrs Susan Millar and Mr Paul Lee. The general proposition that management of cases of child sexual abuse will give rise to particular stress on the workers engaged in it was clearly established at the Inquiry. In the context of social work operations it can lead to diminished standards of performance and poverty of communication. Where it is coupled with any lack of trust the effects are exacerbated. As Mrs Susan Millar pointed out the subject of such stress is not sufficiently developed in any guidelines nor is there sufficient recognition of it in the provision of measures for support or in training. Generally employers are not sufficiently alert to the existence of this stress and may not recognise the need for support staff. Too readily can it still be seen as a failure or a weakness and admitting stress can be seen as a falling short of the expectations of management. Such an attitude is only damaging to the recognition of the need for support. Training in social work should include a recognition of the stress involved in such work and the consideration of effective ways of dealing with it. Nor is the stress confined to the social work profession and the training of the other agencies involved, including the police, should fully recognise the hazard in so far as such training does not already do so. Beyond the matter of training one course which may deserve serious consideration is the development of occupational health services for Social Work Departments or any other agency engaged in this work. It is recommended that consideration should be given to the development of training and services to deal with the levels of stress experienced in work in relation to child sexual abuse.

15.19 Neither Mrs Susan Millar nor Mr Lee had any particular support available in the Department by way of a person to whom they could turn if not for professional guidance at least as an outlet for their own feelings of anxiety and concern. In view of the extent to which child protection work particularly in the field of sexual abuse involves a stress it is clearly desirable that a support facility should be available for members of Social Work Departments and not least for those with management responsibility. Larger authorities can more readily find such a facility but there is a live problem in the case of small departments such as that in Orkney. There may well not be any universal solution either in the description or designation of the individuals who should undertake such a role and in the extent to which they should be available but the matter is one which deserves to be considered and local solutions obtained. It is recommended that consideration should be given in all agencies where the need is recognised to the provision of an appropriate support system for those engaged in child protection work including those at managerial levels. To that end it is recommended that senior staff in the Social Work Departments and the police forces should within a set period, say twelve months, work out what support is needed and programme its provision. The matter should be reported to and review of it secured by the appropriate social work and police committees.

(E) AREA CHILD PROTECTION
COMMITTEES

15.20 It is to be hoped that Area Child Protection Committees will operate as a catalyst in securing a greater degree of mutual understanding of the problem of child sexual abuse and a positive and constructive effort towards meeting the challenge which it presents. The committees serve at least as a forum for representatives of the relevant agencies to meet. But there may be a danger of their failing to secure co-operation in action if they are allowed merely to become talking shops. As BAPSCAN (Scottish Branch) put it in their written submission it will take more than fine words to promote high levels of inter-agency work. While it may be, as they suggest, that increased central funding is required, more immediately and practically an active role is required of them. For example the preparation of joint guidelines is a task which they could undertake. They could usefully consider the methods for increasing public awareness of child protection matters. They could also hold information about resources which would be helpful to staff for advice in complex cases. NSPCC in their written submission suggest that the committees should develop policies and procedures to enable the effective development of resources to cope with a case of multiple abuse. Essentially they should be encouraged to take active initiatives in suggesting courses of action,

training, practical planning and other positive projects to secure that the whole needs of child protection are effectively and efficiently met in their area.

II. Investigation of Child Sexual Abuse

- (A) **INTRODUCTORY** **15.21** No attempt is made here to provide a comprehensive guidance in the investigation of cases of alleged child sexual abuse. Still less is any guidance attempted on the care and treatment of children who have been abused. That is a whole area deserving exploration and guidance in its own right. It can be said that there is a strong case for the carrying out of a sympathetic and comprehensive psychosocial assessment of all abused children and that, as is detailed in the written submission by Dr Kusumakar and Ms Janine Roberts may require a multi-disciplinary approach. The Inquiry did however touch upon some aspects of the problem and it is appropriate to give some consideration to these particular matters. The material here may be of use in the preparation of guidelines for the investigation of cases of abuse including those of multiple abuse.
- (B) **TAKING ALLEGATIONS SERIOUSLY** **15.22** The vital distinction between taking an allegation seriously and believing the allegation has already been discussed in Chapter 13.20. But the distinction cannot be overstressed. It was drawn in the Cleveland Report (paragraph 12.5 and Recommendation 2c). But in the present case not all of the witnesses appreciated it nor did those most closely involved including members of the RSSPCC staff always respect it. It is recommended as matter for guidance that all those involved in investigating allegations of child sexual abuse must keep an open mind and not fall into the trap of confusing the taking of what a child says seriously with believing what the child has said.
- 15.23** The preservation of an open mind requires a concentration in listening with care to what a child says, absorbing all that is said and weighing the child's words objectively. A mind coloured by suspicion or a mind already moving towards a diagnosis can readily undervalue or ignore material which does not fit with a preconceived picture. Similarly material which does appear to fit with that preconceived picture may be over emphasised and highlighted in such a way as to distort the child's further account of the situation. What a child says should be taken seriously whether it supports or refutes an allegation of abuse. As much care should be taken in assessing a denial as in examining an allegation. If an initial allegation is later denied it may still have been soundly based but the denial deserves serious consideration. It is recommended that where allegations are made by a child regarding sexual abuse those allegations should be treated seriously, should not necessarily be accepted as true but should be examined and tested by whatever means are available before they are used as the basis for action.
- 15.24** This makes the attitude and conduct of the person receiving the allegations the more important. Not only may children be under pressure not to disclose abuse but they will be likely to be deterred by a fear that they will not be believed if they do disclose. More than that a child may be inclined to be protective to an adult and if the adult appears shocked by the disclosure the child may prefer not to expand further on the matter to avoid causing distress to others. The recipient of the confidence must accordingly above all display sympathy and understanding, and not transmit any element of disbelief.
- (C) **STRATEGY** **15.25** The investigation of child sexual abuse is a matter of immense complexity, where no single infallible guideline is available except in the simplest case. Signs and symptoms are not diagnostic in isolation but must be seen in a context which includes relevant issues from the past family history as well as risk factors (Bentovim: *Child Sexual Abuse within the Family*, p. 70, Butterworth Press). The investigation of allegations of multiple sexual abuse is a matter of very considerable delicacy. One evident characteristic of child sexual abuse which is common but not invariable is that the activity is heavily protected by a curtain of secrecy which can prejudice investigation. The child is often fearful of disclosure. A high level of secrecy may be enforced on a child by threats by the adults involved or by pressures from other children involved. Children may fear that if they

disclose the abuse their parent may be sent to prison. They may fear that they will themselves be removed from home and they prefer despite the abuse to remain where they are. There may be a consciousness of guilt or shame on themselves which quite apart from conscious efforts to secure secrecy keep their lips sealed. The element of secrecy in intra-familial abuse may be sufficiently inspired by considerations of family loyalty which can outweigh the distress of the abuse. But the element is no less strong in the context of an extra-familial multiple abuse. In that context there may be an immense emphasis on secrecy and it is that element, rigorously stressed and enforced, which contributes the main difficulty in the detection and investigation of the activity. Children have been known to accommodate themselves to abuse and even to regard it as a usual course of life making detection the more difficult.

15.26 In cases of multiple sexual abuse particularly where there is an element of organisation a planned and organised response is required. Where the abuse is on an organised basis there will probably be the greater pressure applied to secure secrecy. Strenuous efforts may be made to avoid detection and to minimise the effect of any intervention. Conversely because a larger number of people is involved their activity may be more open to discovery. What is required is a well planned and well organised operation in the investigation of the case. The organisation of the abuse requires to be countered by organisation in the response just as the secrecy has to be countered by secrecy. Guidelines in the investigation of multiple abuse especially where there is an element of organisation calls for a high level of secrecy and organisation in the response.

15.27 In addition there is a need for caution. If there is a reasonable belief that the situation is one of emergency immediate intervention will usually be appropriate. Some cases, especially of physical abuse including neglect may call for immediate action. But in many cases of multiple sexual abuse a degree of caution should be adopted. No single element in the situation may be sufficiently reliable. As Mr Chant observed the advice given in the past of believing the child is too simple and 'the approach that leads us into having so-called disclosure interviews has led us down a blind alley'. What is required is a balanced judgement of the whole situation and an ability to demonstrate the probability of harm to the child. The matter is one of weighing a variety of considerations, including the possibility of further abuse and prematurely alerting the alleged abuser. ADSW emphasise in their report (para. 35.3) 'the need for careful inter-agency assessment of the nature of the information received: to stop and think and to create a system where ideas/worries/theories can be weighed up objectively in a supervised setting.' The risk of delay may have to be balanced against the benefit of obtaining further evidence. Delay may also be appropriate to obtain professional advice upon the evaluation of an allegation or the assessment of the reliability of its source. But the interests of the individual child should not be sacrificed to the greater good. It has to be accepted that much as the public may wish to expect it no profession can succeed in making the right decision on every occasion that decision is required. But the best hope for a good level of success lies in a carefully planned approach with decision making built on a sound basis of all available knowledge. It is recommended as a guideline that a carefully planned approach and a degree of caution at least in cases of multiple sexual abuse is to be adopted.

15.28 Another recognised feature of child sexual abuse is that if the attempt is made to remove the child and that fails there is a real risk that the position of the abuser will be strengthened so far as the child is concerned. The child may feel doubly betrayed and the prospect of an admission of the abuse being forthcoming will be made more remote. Nor will the abuser be deterred by the unsuccessful intervention and the abuse will continue. It is recommended that action by way of a referral far less action for the removal of the child should not be taken unless an objective assessment of the situation has been made together with meticulous planning to balance the risk inherent in intervention against the success of the legal process.

(D) THE JOINT APPROACH **15.29** While there is a general recognition that in cases of child sexual abuse it is important to follow the course of a 'joint approach' there is some lack of clarity

in the understanding of that principle and how it should operate in practice. Even the terms 'co-operation', 'collaboration' and 'co-ordination' are each open to definition, as has been more fully discussed in Hallett and Birchall's work on Co-ordination and Child Protection (Edinburgh, HMSO). There is rightly a growing understanding that child protection is the business of all the agencies not the monopoly of one. It is plainly not sufficient simply to define it in terms of a requirement for all agencies to work with the common end of securing the welfare of the child as if all were united as one agency. The distinct statutory functions and duties of the principal agencies, the police and the Social Work Department, have to be recognised and respected. The welfare of the child is the consideration which is to be given priority in resolving any problems of procedure or action. The essence of the joint approach is a full sharing of the information and intentions of each agency so that the action of one is not prejudiced by any action of the other. It does not imply that all must be involved in every action to be taken by any one but that there is a synthesis and harmony in the actings of all of them with a view to creating the greatest benefit and the least disturbance to the child whose interests are paramount.

15.30 One particular practical advantage of the co-operation is the securing that tasks such as medical examinations or interviewing, which more than one authority wish to carry out are arranged and carried out jointly, so as to avoid the child being subjected to unnecessary repetition of such experiences. But the co-operation does not end there. There should be the fullest sharing of information and of thinking. As is suggested later the Reporter should be empowered to obtain for a Section 42 Proof from the police both the information and material which has been collected by them for the purposes of a prosecution. But throughout the whole of a joint operation the substance of evidence discovered by any agency should be shared with the others where it is relevant for the work of those others.

15.31 In the working out of the joint approach there must be a clear understanding of the tasks to be carried out by each agency. At the early stage of any possible action the pursuit and recovery of evidence is a matter for the police. The social work profession is not authorised, designed or trained to do this. The Social Work Department are bound to make enquiries under Section 37(1A) of the Act of 1968 but that only arises where they have received information that a child may be in need of compulsory measures of care and they have no obligation to make enquiries if they are satisfied that such enquiries are unnecessary. They may thus ascertain whether or not there is a case to be investigated but the investigation should be undertaken by the police. The police must however share their information in confidence with the Social Work Department and essentially they must discuss the evidence together and assess it.

15.32 At least in cases of suspected multiple sexual abuse the most senior managers of the police and Social Work Department should designate an appropriate senior member of staff in each agency to co-ordinate the work on which both agencies will be engaged. The departments might even agree to the appointment of one person as manager of the case. The appointment will be a step to be taken at the earliest possible stage and should enable clear lines of communication and a clear control to be established from the start. The involvement of a senior member of staff should provide the necessary degree of experience, the authority to make delicate decisions and the more ready access to advice and consultancy. The case manager or managers would hold overall responsibility, would arrange the holding of planning and strategy meetings, would keep in contact with all interviewers and senior managers, control the flow of information and secure that all workers were adequately supervised. It is recommended that at least in cases of suspected multiple sexual abuse a senior member of the staffs of the police and Social Work Department should be designated to co-ordinate their joint work.

15.33 One practical step towards securing a greater degree of practical co-operation is by the organisation of joint training. Another is the preparation of joint guidelines. Each agency should not draw up its own guidelines in isolation. Moreover after inter-agency discussion a common procedural guideline should

be prepared with which both agencies will be familiar. Such guidelines would identify the particular actions which will be specific to the responsibility of each agency.

(E) THE AGENCIES **15.34** The discovery of sexual abuse should not be seen as the preserve or monopoly of any agency. On the contrary every agency which has any involvement with children should be watchful for any signs which may reflect the existence of abusive conduct. Some particular points arose at the Inquiry regarding the educational agencies.

15.35 Schools provide an important opportunity for the behavioural symptoms which might indicate abuse to be observed. But it needs skill and training to identify those symptoms. Miss McLeman welcomed the suggestion that there should be designated teachers capable of identifying any signs of child sexual abuse so as to acquaint the appropriate agencies from which further assistance could be sought. She also believed that the school could have the same close relationship with the Social Work Department which they enjoyed with the police and it is considered that that is a desirable aim. It is recommended that schools should establish close links with their local Social Work Departments and that the teachers should be designated to be trained in the recognition of child sexual abuse and the roles of the various professionals who may be involved.

15.36 In addition to the position of designated teachers it will be desirable that school boards and other organs of school administration be informed about the problems of sexual abuse and the importance of its discovery. They should also be given guidance in the management of cases where abuse is suspected so that they can give appropriate support to school staff where problems arise in that regard. It is recommended that the administrative bodies of all schools should be helped to develop an awareness of the problems involved in child sexual abuse and the roles of the various agencies engaged in dealing with it.

15.37 Where a teacher provides information about a child who may be at risk of abuse there is a natural anxiety about how his or her continuing work with the child and the child's parent will be affected. A teacher must be able to pass on their concerns to a Head Teacher and be given support in any future action in which they may need to be involved. There is an obvious possibility that if the child's care becomes the subject of referral to a Children's Hearing and the grounds are disputed the teacher may be called to give evidence in Court and thus the source of the original concern will be evident to the parents. It is recommended that education authorities recognise the problems created for teachers in their continuing work in these situations and that all steps be taken to minimise the effect on the relationship between the teacher and the family by securing as much confidentiality as possible at all stages of the process.

15.38 Schools may also be a valuable source of information about a child when concern is felt about the child by other persons or agencies outside the school. If steps do require to be taken for the care and protection of the child information may usefully be obtained from the school for the benefit of those who are to be concerned with the child's future care. One area of concern is the requirement for obtaining an accurate record of the information which a school can provide. In that regard it is suggested that it is preferable that the material should be provided in writing by the teacher with the most immediate and day to day contact with the child so that the information can be recorded in the precise way in which the teacher would wish it to be. It is recommended that any information about the children which is to be used for the purposes of their compulsory care should be provided by the teacher in writing.

(F) PROCEDURE IN INVESTIGATION **15.39** As regards the procedure to be followed where child sexual abuse is suspected particularly in cases of suspected multiple abuse there are certain particular matters to be noted. In the first place there should be a joint meeting at the earliest possible time between representatives of all the relevant agencies including the Social Work Department and the police. The first purpose of such a meeting would be to consider the available information and decide whether any action is

required. Arrangements should then or at a subsequent meeting be made for the course of further investigation, who is to undertake it, how it is to be done, how the information is to be shared, how further action is to be co-ordinated and after what period the whole situation should be reviewed. The procedure to be followed should be flexible in order to allow full consideration of action. The extent of the problem should be canvassed and the area of the enquiry should be clarified and agreed. As indicated earlier senior management should be involved at the earliest stage and if matters are to proceed consideration should be immediately given to the appointment of a case manager. One essential item to be decided at this stage is how the parents are to be approached if they are not already involved. Another is whether the child or children should be interviewed and if so how, where and when. If interviewing is to proceed consideration should also be given to the obtaining of a full assessment of the child. In any case of suspected child sexual abuse an inter-disciplinary meeting should be held at the earliest stage.

15.40 In the second place parents should usually be informed from the outset that the suspicion exists and that the matter is being investigated. It is necessary to safeguard not only the rights of the children but also the rights of the parents. Article 8 of the European Convention on Human Rights provides as follows:

'8.1 Everyone has the right to respect for his private and family life, his home and his correspondence.

8.2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.'

It should be expressly provided that subject to such exceptions as are covered by the proviso to the Article the parents should always first be consulted before any action is taken regarding their child. Article 9.2 of the UN Convention on the Rights of the Child provides that in any proceedings relating to the separation of a child from his or her parents all interested parties shall be given an opportunity to participate in the proceedings and make their views known. Co-operation or an attempt at co-operation with the parents is one essential prerequisite for any intervention. As Mr Chant put it 'one only resorts to intervention when you are satisfied that you are not going to be able to secure the well-being of that child by working in co-operation with its parents'. There will be some very few cases where it may be decided that in the interests of the child the parents should not be informed, as for example where there are sound reasons for anticipating that the child will be harmed or removed on any knowledge of any investigation, or where in a case of suspected multiple abuse there are sound reasons for anticipating that the interests of other children may be prejudiced. In all of such cases it should be stressed that suspicion is not enough. There must be a soundly based professional judgement to support any decision not to inform the parents.

15.41 Where the welfare and care of the child is being considered parents should be informed and their co-operation should be sought. Article 5 of the UN Convention requires their direction and guidance to be respected. 'Effective Intervention' refers to Articles 6 and 8 in relation to the involvement of parents in decision-making. Their views should be obtained and carefully considered. They should be invited to participate in joint meetings of the agencies at which decisions relating to the care of their child are to be made as opposed to initial planning meetings, whether or not entitled 'case conferences', despite the tension which may be created by that course. It has of course to be remembered that the primary purpose of these meetings is to secure the welfare of the child and the parents' participation should be seen as part of their responsibility for the welfare of the child. The course will call for sensitive and competent chairmanship and a clear understanding of the course to be taken in the handling of the case so that the course of any criminal prosecution is not impeded but the parents are still afforded every opportunity to contribute to the decision affecting the future of their children. It may be appropriate for the parent to attend only part of a meeting and there may be cases where a parent's view could be appropriately submitted in writing. But however

it be managed the parents' view, even when the parent is an abuser, should be available to the meeting.

15.42 In the third place consideration has to be given regarding any contact to be made with the child or children who are the object of the suspected abuse and any other children in the household. If consulted they should be consulted sensitively and with care. Article 12 of the UN Convention secures a child's right to express his or her own views freely in all matters affecting him or her and requires those views to be given due weight in accordance with the age and maturity of the child. But consideration should also be given to the making of inquiries of adults rather than of the children at least if there is a prospect of resolving suspicions by such an inquiry and so avoiding the causing of any disturbance to the children. As Mr J.D. Bell pointed out in his submission it is proper for the police to make inquiries, put suspects under surveillance and search premises for material evidence. Consideration should be given to that kind of inquiry first so that children are not approached far less removed unless there is solid evidence to justify the course.

15.43 In the fourth place enquiries should be made with all due discretion from every available relevant source including in particular members of school staff and the Health Service agencies. Particularly in cases of multiple abuse where the enquiry is one of complexity and delicacy the fullest possible information should be collected before any concluded view is reached on future action. The source of the information which has prompted the suspicion requires to be examined. As Mr J.D. Bell pointed out in his written submission where the information has come from a child who may in some circumstances not easily distinguish between fantasy and reality, an examination of the child's mental state is desirable.

15.44 While not all cases will require considerable professional expertise in their investigation or their treatment there are cases, particularly those of complexity, where particular professional assistance and advice should be sought. In such cases consideration requires to be given at an early stage to the possibility of seeking the advice of a child psychiatrist or child psychologist to assist in the evaluation of the evidence and the decision as to the proper course of action. As is stated in the ADSW report (3.11.3). The social work system which is required is one

'which is able to identify cases where the other professionals would have something beneficial to offer the child and the family beyond the skills of competence of the social work team'.

The necessity to call in such extra advice does not admit of an absolute rule. In the context of allegations of multi-family and multi-child abuse evaluation by a psychologist or psychiatrist may well be helpful. If any question of any difficulty in separating fact from fantasy in the evaluation of an allegation arises then such an expert opinion is more certainly called for. But there can be relatively simple cases where no such course is necessary. Social Work Departments need accordingly to have ready access to such a source of guidance in appropriate cases. Such a bank of information could usefully be drawn up by the Area Child Protection Committees. It is recommended that Social Work Departments should have recourse to independent professional advice in all appropriate cases. It is also recommended that a list of persons suitably skilled and experienced in providing such advice be available to all Social Work Departments.

15.45 The advice and assistance which can be so obtained may come not simply from a single professional adviser but from a child psychiatry team. The value of such a team in a wide variety of decisions on matters relating to child abuse or alleged child abuse was pointed out in a paper by a working group of the Child and Adolescent Specialist Section of the Royal College of Psychiatrists which they have indicated is presently being up-dated. Such a team may include in addition to a consultant child psychiatrist a clinical psychologist, a social worker, a community nurse and an occupational therapist. A child psychiatry team may have a helpful contribution to make both in the making of a developmental assessment and in the ascertainment of whether or not abuse has occurred. It will have an important role to play in assessing the situation where there are signs of emotional problems or behaviour difficulties or developmental delays and in the distinguishing of psychiatric disorders from an incident of abuse suspected or alleged. It should be

recognised of course that abuse and psychiatric disorder can co-exist. A high standard of advice should be obtainable from such a team at all stages of the investigative process. Such a team should work in close consultation with all the other agencies concerned in the problem including the Social Work Department, the education department, the police and any other services engaged. Consideration will of course also require to be given to the question how such additional expertise and advice should best be funded.

15.46 Consideration will require to be given to the necessity for a medical examination of any child when abuse is suspected. Co-operation among agencies is necessary to secure that unnecessary or repeated examinations are avoided. But the medical evidence is only one element of the whole study. It may or may not be conclusive. The variety of factors which operate to make the presence of medical evidence likely or unlikely, including the age of the child, the length of time since the abuse occurred and the form of the abuse, all operate to make reliance on this area of evidence in some cases uncertain. The absence of positive findings by no means excludes the possibility that sexual abuse has occurred.

15.47 Further complexities may arise where a case of multiple sexual abuse is suspected extending outside the boundaries of a local authority into the area of another. Co-operation in cases of work extending over more than one district in Strathclyde region has been secured by holding a meeting at regional level. Where two separate local authorities become involved it would be correspondingly desirable for special arrangements to be made between the heads of the respective agencies involved in order to ensure a complete co-operation. It is recommended that where two separate local authorities become involved the heads of the respective agencies involved should make special arrangements to ensure complete co-operation.

15.48 Some cases of alleged or actual sexual abuse will probably continue to be regarded as newsworthy. The agencies involved should be prepared to respond positively and appropriately to inquiries from the media. The possible ways and means should be a matter of earlier consideration, planning and guidance. In some cases the assistance of a press officer may be necessary. Consideration should be given to a more open approach on the part of agencies than may have been traditionally adopted. The agencies should consider in particular where if parents have not sought to preserve any confidentiality how far the safety of the children is protected by reticence on the part of the agencies. But at least procedures should be in place to anticipate the eventuality and enable the situation to be controlled and managed if it does occur. It is recommended that all agencies involved in child protection work should at the least have a contingency plan to enable an effective and appropriate response to media interest to be mounted if occasion should require it.

15.49 Finally, while some characteristics of child sexual abuse have been identified it has to be appreciated that the subject is still open to further research and discovery. While keeping an open mind on the truth of allegations the practitioner must also be alert to the possibility of novel cases emerging. Guidelines should not be so narrow or so particular as to exclude the possibility of abusive activities whether organised or not which to date have not been clearly identified or recorded.

(G) PROSECUTION AND PROTECTION

15.50 Certain matters arose during the course of the Inquiry which point to possible problems and reforms in relation to the prosecution and disposal of offenders. While this is somewhat removed from the subject matter of the remit it is nevertheless appropriate at least to record these matters so that further consideration might be given to them which it is recommended should take place through joint discussion between the Crown Office and SWSG.

15.51 One matter relates to the position of the suspected abuser. The Scottish Child Law Centre suggest that greater consideration should be given to the possibility of removing the suspected abuser to allow the child to stay at home. They recognise that this is not a universal panacea and that it would be inappropriate in some cases. They suggest that a provision for compulsion should be

available when the course is appropriate. It is recommended that serious consideration be given to the introduction of a power to have a suspected abuser excluded from contact with the child, obtainable on application to the Sheriff on the presentation of sufficient evidence perhaps by affidavit to support a probable cause. It is suggested in Chapter 16.44 that this could be one of the powers obtainable under an Interim Protection Order.

15.52 It was recognised in the course of the evidence that the care of the child should take priority over criminal prosecution and that prosecution should be secondary to the interests of the family including those of the child. If time and effort are concentrated on seeing if the parents can be proved guilty of an offence there is as Mr Sloan pointed out a risk of the interests of the child being lost. But as the British Association of Social Workers pointed out in their written submission 'it is not easy to produce an operational definition of what it means in practice to assert the privacy of child protection over criminal investigation;' however they recognise that decisions should be rooted in that principle. Mr Chant's approach was to the effect that no prosecution should be taken if it was against the interests of the child to take it. To adopt Mr Kennedy's language the emphasis is and should be on looking to the possibility of avoiding the waste of a human resource and the breaking up of a family so that a prosecution is not necessarily the best answer. Furthermore it may well be that it is fear of prosecution of a parent which restrains a child from disclosing abuse. In some cases a prosecution may be in the best interests of the child. In others the continuation of a criminal investigation, let alone the insistence on a prosecution, may be damaging, to the child and in those cases the public interest in securing a conviction must give way to the paramount interest of the child. It is recommended that consideration be given to the adoption of alternatives to prosecution in appropriate cases.

15.53 It is not suggested that there should be any de-criminalising of child sexual abuse. One course mentioned in the evidence was that of suspending criminal and civil proceedings to enable a problem of alleged abuse to be resolved between the family and the social work agency. The parents in their final submission refer to this submission as dangerous in respect of the attempt it makes to supersede a legal determination of abuse by discussion between parties who may on the one side fall into the trap of believing the allegations before they are proved and on the other be persuaded to admit and accept what might otherwise not be proved. Nor did the idea appear attractive to SWSG. It is not recommended that such a course should be adopted. It appears that both intervention and treatment should take place within a clear legal framework. Discussion between the Reporter and the Procurator Fiscal operates as an appropriate method for deciding the course to be followed.

15.54 A more profitable line of development may lie in the area of disposal rather than in the matter of prosecution. One course which has been advocated is that of criminal diversion schemes such as the treatment programme which has been developed in the USA on the ideas of H. Giarretto, discussed in 'Sexual Assault of Children and Adolescents,' (A.W. Burgess, Lexington Books 1978). In Mr Lee's written submission it was recommended that the Crown Office and SWSG should urgently investigate the establishment of some diversion scheme. In approaching this subject it has to be recognised that diversion schemes may as is pointed out by Patricia Toth in 'Interviewing in Child Sexual Abuse' (ed. Murray and Gough, Scottish Academic Press p.140) operate either at pre-charge stage, at pre-trial stage or post-trial stage. Support was given by Dr. Trowell to the need to have the authority of the Court and there may be good reason for having a scheme available at the stage of pleading after criminal proceedings have begun rather than at any earlier stage. The whole matter certainly deserves consideration in the course of the more general review which has already been suggested. Another formal course might be the introduction of an express statutory provision that in cases at least of intra-familial abuse imprisonment should not be imposed unless after considering not only a social work report but a psychiatric report the Court was satisfied that no other disposal was appropriate. It is recommended that consideration be given to alternative courses than imprisonment in cases at least of intra-familial child sexual abuse.

III. Guidelines

(A) CHARACTER **15.55** One of the criticisms made of Orkney Social Work Department was the absence of guidelines. In advancing it the four families argued in their final submission that their ought not only to be guidelines but that if social workers and others ignored them it might be necessary to make the following of them a statutory requirement. It is however important not to misunderstand the nature and character of guidelines. They are not regulations to be followed slavishly in every case but indications of what in most cases will be the appropriate practice. Departure from them may well be unwise but the possibility of departure from them after full consideration in particular circumstances has to be recognised and accepted. They are not and should not be statutory requirements but standards for normal procedure. As was set out in the submission by the Scottish Child Law Centre: 'It would not be in the interests of children to harden guidelines into tablets of stone. Instead, social workers should be better trained and supported in the exercise of professional judgement. There should be no unrealistic expectation of 100% vindication of these judgements'.

15.56 It is important that the existence of guidelines should be kept firmly in a proper perspective. Obviously they have uses, such as enabling the development of social work practice, the promotion of good principles of practice, or the giving of ready guidance to relevant statutory provisions. But there is a real danger in them becoming regarded as prescriptive. One suggestion has been that guidance and recommendation should be made mandatory and enforceable. The organisation Parents Against Injustice (P.A.I.N.) indeed submitted a recommendation that the recommendations in 'Working Together', 'Effective Intervention', the codes of practice on guidance and co-operation and in 'Access to Children in Care or Under Supervision' and the recommendations made by such inquiries as that into the Cleveland cases should be made mandatory and enforceable. But many of the matters covered by such guidance are not such as can be made the substance of absolute rules fenced with sanctions. Furthermore obedience to procedures does not, as Mr Ian Leighton pointed out in his submission to the Inquiry, necessarily lead to the correct clinical decisions. As ADSW observe in their Report (paragraph 2.3.4): 'Overly prescriptive procedure runs the risk of impeding good work rather than enabling it'. In a profession where common sense and common humanity coupled with the appropriate technical skill and knowledge are the essential prerequisites, the inflexibility which is inspired by elaborate procedural rules can become a recipe for an impersonal approach which stultifies if it does not negate the effective discharge of the profession's obligation. The Scottish Council for Civil Liberties in their written submission said of guidelines: 'No amount of them can cover every eventuality; it is foolish to imagine so and can lead to rigidity and over bureaucratisation. There is no substitute for good professional practice informed by research and basic human sensitivity'. Mr Lee endorsed the philosophy that 'while procedures may be of assistance, ultimately what social workers do depends on the skill and experience of their professional judgement'.

(B) LOCAL GUIDELINES **15.57** Every local authority ought to have its own guidelines for the guidance of staff in all aspects of child protection work relative to the particular circumstance of their particular area. These will not be uniform throughout the country but while the substance of them will necessarily vary the standards of professional practice on which they are based should not. The roles and responsibilities of the various officers of the local authority should be identified and guidance should be given in particular on how members of staff are to deal with matters of child protection. Not only should there be specific guidelines for each agency but there should also be guidelines covering the roles and responsibilities of the range of agencies and professionals who may become involved in child protection so as to help all agencies identify each other's particular functions. The existence of any national guidance does not obviate the necessity for local guidance, but all local guidance should be consistent with and designed within the context of a national guidance. In most local authority areas guidelines have already been prepared including some of considerable detail and sophistication. For the avoidance of any doubt it is recommended that all local authorities should have guidelines for the

management of cases of child abuse consistent with and in the context of national guidelines.

(C) NATIONAL GUIDELINES **15.58** In addition to local guidelines there is a place for national guidelines. National guidelines will cover the broad areas of necessary and desirable actions, while the local guidelines identify how, when, where and by whom such actions are taken. Here a balance has to be struck between the general and the particular. Statements of general principle may not always suffice in the solution of particular problems. Too detailed a prescription of procedure will not be suitable for all situations and would run counter to what Mr Chant recognised as the need for procedure to evolve from the practice of the profession.

15.59 The publication 'Effective Intervention' provides a suitable method for the presentation of national guidance for all local authorities and agencies involved in matters of child abuse. It provides a useful means of securing uniform standards of practice in Scotland. It is understood that it is currently under review and that its whole format is being reconsidered. There are certain respects however in which that publication could be usefully improved in the preparation of a new edition. Its approach and style could be made more precise and its content more comprehensive. The more detailed approach adopted by the English equivalent 'Working Together' and the embodying of the terms of the relevant legislation sets a preferable example. It is recommended that a new edition of national guidelines for Scotland should be prepared embodying extracts from the relevant legislation.

15.60 The guidelines for child protection should be set in the context of a clear statement of basic principles. These should recognise the rights of the child and the rights and duties of the parent. In particular the rights of the child set out in the UN Convention should be taken as providing the basic framework. Statements of principle can also usefully be found in Part 2 of ADSW's recent report which has been already published by HMSO.

15.61 While it should contain general guidance for social workers in Scotland the document must also be clearly aimed at all the agencies involved so as to give guidance to those of all disciplines and professions engaged in work in the field of child abuse. There is a risk at present of it being seen particularly as a social work document and while the work of Area Child Protection Committees should develop a consciousness and a reality of co-agency work the document itself should be more clearly aimed at all the relevant agencies. It should recognise the need for dialogue and collaboration between the police and the Social Work Department, together with the Procurator Fiscal and the Reporter. It should not simply stimulate the agencies to work together but be of positive assistance to all of them to achieve that end. While the agencies in every locality will require to have their own local guidance, also prepared on a joint basis and applicable to all the relevant local agencies, the national guidance should be prepared with the co-operation and advice of all the agencies and disciplines involved at the earliest stage.

15.62 The full substance of the national guidelines is matter for further discussion but some principles are clear. The existing guidelines require to be extended to cover cases of multiple abuse. But it should also be stressed that any situation of multiple sexual abuse or organised sexual abuse should be seen primarily as a case of sexual abuse and the more particular characterisation or description should not divert attention from the basic consideration of the welfare of the abused child. The guidance should explain in what respects multiple abuse may call for more sophisticated action. Thus it may require differences in the management and procedure so that the guidance will be relevant to the higher levels of management rather than field level. It is recommended that a new edition of national guidance be prepared setting out the guidelines applicable to all forms of sexual abuse including multiple abuse.

15.63 In accepting that guidelines appropriate for other cases of sexual abuse can also be relevant and applicable to cases of multiple sexual abuse a distinction should be made between tactical or operational guidelines on the one hand and strategic or management guidelines on the other. It is very largely in the latter field that multiple abuse may call for additional guidance. At field level the guidance for

work with children will in most cases be the same for all cases of sexual abuse. But at managerial level some refinements or more sophisticated guidance is required in multiple abuse. Special expertise at higher management level may well be appropriate. It is recommended that the national guidelines should recognise the difference between operational and managerial guidance in cases of multiple sexual abuse.

15.64 National guidance should include guidance on the principles to be followed where authorities or agencies of different areas require to co-operate in order to deal effectively with more complex cases of child abuse, especially child sexual abuse. In the interests of uniformity this is not a matter which can be left to local guidelines. It should for example be clearly stated in national guidance whose procedures are to be followed in matters of investigation and whose procedures should control the day-to-day care of children who require to be placed in the area of another authority. While the matter or certain details of it may often require to be worked out ad hoc to meet the requirements of particular cases, the existence of a general principle of usual application would be useful to obviate uncertainty.

15.65 Other matters on which national guidance is required include the principles to be observed on the removal of children, the keeping of accurate records at all stages of the operation, the selection of staff for interviewing, the conduct of investigative interviews, the recording of interviews, the holding of inter-agency meetings and case conferences and who should attend them, and how agencies should react to media interest, perhaps by requiring senior management participation or the appointment of a press officer. Some particular matters are suggested in the course of the present set of recommendations.

15.66 While the name to be given to the national guidelines may seem to be a minor matter the title can colour an approach or reflect a philosophy and may in that way be important. It might be thought that 'Working Together' admirably stresses the need for co-operation between agencies but it may at the same time mask the true significance of the joint approach. 'Effective Intervention' might seem to reflect a degree of assertion which might not adequately take account of the degree of caution and care which is required. Perhaps some such title as 'Child Protection' would be appropriate.

IV. The Island Problem

15.67 In order to cope with the situation which was perceived to have arisen in the present case Orkney Social Work Department required to find help from outside the island both in manpower to assist in the removal and in respect of the care and interviewing of the children after their removal. The problem of resources is a real one for a small authority like Orkney Islands Council. Their establishment is relatively small and it would be uneconomic to have a permanent force available to meet such exceptional emergencies. Even release for training courses is difficult and in-house training virtually impossible. It is no discredit to them and no disgrace that they may require in exceptional cases to seek assistance from elsewhere. Even larger authorities gladly accept external help in situations of crisis or disaster. Moreover there was some evidence that the execution of Place of Safety Orders on the scale of the present case would have taxed authorities much larger than Orkney Islands Council. Furthermore if multiple sexual abuse occurs it does not necessarily respect the boundaries of local authority areas and two authorities could find themselves engaged in the investigation and management of what is one joint activity. The problem of resources which faced Orkney is not a wholly unique or special one and some solutions both of a special and a more general nature were canvassed at the Inquiry.

15.68 One solution for Orkney would be to merge their Social Work Department with another authority, such as with Highland, where the corresponding position with regard to the Northern Constabulary provides something of a parallel. This would have the advantage of the greater availability of expertise and manpower which a larger authority can provide. But that seems too extreme a solution. Quite apart from the innovation upon the distinct constitutional structure

of the islands authority which could be contrary to declared policy and locally unwelcome there is no good reason for merging the several activities within the Social Work Department which no-one suggested would be improved by such a merger simply to meet a potential problem in the area of child protection work. Even if such a structure might have avoided some of the difficulties which arose in the case of the nine children such a unique case does not justify so radical a change.

15.69 A modified suggestion would be that the management of child protection work be surrendered to some joint control by the islands council and some other mainland council. The suggestion was made of a delegation under Section 56 of the Local Government (Scotland) Act 1973. But it is questionable whether an effective definition of the area of work could be devised since other areas of family care may be closely associated with matters of child protection. It is not recommended that any solution along the lines of such constitutional change should be adopted.

15.70 The suggestion was put forward by Orkney Islands Council that a body of persons skilled in the handling of cases of organised or multiple child sexual abuse should be centrally available to assist in any area when required. The idea has some attraction but it was not supported either by SWSG nor Mr Chant speaking for ADSW. One objection which was raised was that such a body might react too rapidly to cases which required careful consideration. This argument was inspired by the name 'flying squad' which was used to describe the idea. The name was perhaps an unfortunate one in the context and certainly the idea cannot be dismissed simply on the selection of that title which may not fairly represent the true character of the intended body.

15.71 Another objection to the idea was based on considerations of the accountability and responsibility of the local authority. One concern which was very properly aired by members of the SWSG at the Inquiry was the necessity to preserve the responsibility which the local authority had under statute for child care. One anxiety about the idea of an expert team introduced to deal with a complex case was that such a team might take on a responsibility which by statute ought to remain with the local authority. Mr Chant was also concerned that the statutory responsibility should not be watered down. This problem however is also one which has to be faced by the course which both SWSG and ADSW preferred, of an arrangement with another authority to provide the skilled assistance which a small authority might require. If it can be overcome by express agreement in advance in that context it could also be overcome if arrangements were made with some national task force. There could be a clear understanding under any agreement that the legal responsibility remained with the local authority even when they were employing a highly skilled professional to advise on the management of the operation.

15.72 Another objection raised was that a national body would not have sufficient work to perform. That problem could be overcome by having the group composed of persons who were only involved when required, seconded from their normal work and able to be called from the different areas where they worked when the need arose. That indeed was the suggestion proposed by Orkney Islands Council. That concept of a nationwide scheme comprised a body of members of staff drawn from a variety of areas throughout Scotland and selected because of their training and experience in child care work even although that was not their sole area of work. It was suggested that staff would meet and train regularly together with colleagues from throughout Scotland. Thereby it was hoped that a national strategy on education and training for social work in Scotland might be developed. Their own training would assist in the development of uniform practices throughout Scotland and the devising of national guidelines. It was also hoped that such a national team would develop a team spirit which would cut across the boundaries of different agencies and prevent inter-authority rivalries and prejudices.

15.73 It was also said that such a body could not guarantee the provision of placements for children in other areas, but it is not for that purpose that the idea was conceived. Mr Chant expressed concern on behalf of ADSW about the

potential value of a body of people with a very specialist remit when it is impossible to predict with any accuracy what particular emergency might arise needing their services. However if the group had a sound and wide ranging expertise in child care then they should be able to respond to most situations which might arise relating to children.

15.74 A further problem remains in the working relationships between such a theoretical national group brought in to a local authority and the local workers. The present case emphasises the difficulties which can arise in such relationships. The difficulty remains in ensuring that the incoming group would work harmoniously and effectively in such circumstances with the local staff. If a resource team was to be available for assisting small authorities it would have to have an established relationship with that authority so that the incomers do not come as strangers. There would have to be ongoing contact between the two. It can be argued that joint training might help to create the links which would overcome the unfamiliarity in the relationship or of differences in philosophy but in the context of a small authority like Orkney it is questionable whether the possibility of such a link would be sufficient to overcome the problem. The clear establishment of uniform national guidelines on practice would help to minimise differences in philosophy. While Orkney Islands Council submitted that the team spirit would cut across the boundaries of the different agencies by whom the team might be employed it may be questioned how far the links with all the remoter areas could be sufficiently developed to achieve that end.

15.75 One alternative would be for Orkney Islands Council Social Work Department or indeed any Social Work Department to make arrangements with the Social Work Department of another authority for assistance in the future. This course commended itself to SWSG and was also put forward by Strathclyde Regional Council in their written submission. The arrangements would require to be made in writing and national guidance was suggested by Mr Sinclair for the benefit of local authorities. It was suggested that there should be a clearly defined arrangement with identified individuals to provide consultation and advice on particular types of care and a clear understanding about the management and accountability of the staff involved. In obtaining outside expert assistance there must be a clear contractual understanding of the role and responsibilities of the parties. The statutory responsibility on the local authority must remain clear and the decision must remain the decision of the local authority however much they rely on the advice which they receive. Most situations could probably be adequately covered by a standard form of agreement which would embody all the terms appropriate to the case. As Strathclyde Regional Council pointed out any arrangements should not interfere with existing arrangements for the sharing of resources which have worked well for some years.

15.76 While theoretically this might seem an attractive solution and while local authorities might agree in principle to such a course, it might well be difficult for any of them to give a future commitment which could be depended upon. Mr Lee circulated all the local authorities in Scotland on 14th February 1991 but only some of them were able to help him. Further the danger of firm pairing as a means of providing expertise could be that a situation would occur where neither of the particular authorities had the required experience of dealing with the particular problem which had arisen while another neighbouring authority happened to have an extensive experience of it. Moreover the basic problem remains of the joint working of professionals who may not be used to working with each other and who may be accustomed to different practices and procedures. The whole trouble which occurred with the mainland workers in the present case could be replicated. As Strathclyde Regional Council while supporting the idea pointed out there could be the risk of a 'mismatch' between a group of staff with limited experience and skill and a group with extensive experience and skill. One advantage of the idea of a national task force is as Mrs Brown observed that it could come from central not local government, would be free from local loyalties and form a distinct unit in themselves.

15.77 One suggestion advanced by SWSG was that help could be obtained from a specialised voluntary organisation, but some of the practical difficulties which

were advanced to meet the idea of a national agency arise again here. It was not suggested that such a body presently exists. No voluntary organisation could afford to keep such expertise on standby. It may not be easy to predict the precise composition and expertise which would be required. The idea faces certain practical difficulties.

15.78 What does appear to be required is access to a high level of expertise for guidance, advice and support in particular cases where local resources and skills are inadequate. SWSG is properly not a body designed to provide practical assistance to local Social Work Departments in particular cases. There are thus two separate aspects of what may be required to support a local authority whose resources are inadequate. One is the practical assistance of someone who is not only expert in the particular kind of case which has arisen but also has the managerial skill and experience to assist in resolving any problems of communication and responsibilities which can occur when groups of workers with little knowledge of each others skills and procedures must come together to form a team in a complex operation. The second aspect is the actual staff who can supplement or provide the direct service to the children and families involved, whether it be at the stage of removal, placement or ongoing support in a child abuse investigation.

15.79 ADSW recognised in their report the greater need for supervision, consultation and support and co-operation where larger groups of professionals are engaged in the investigation of multiple abuse. That expertise should exist already in several parts of Scotland and it should be possible to draw together a list of people with the required skill and knowledge who would be willing to be called on to provide expert advice on a complex case and its management. Accountability would remain with the local authority facing the complex investigation. The statutory duties to act remains on their shoulders however much they utilise and follow the advice of consultants brought in to assist. Such a central resource could also be the focus for the collection of practical experience from all areas of child sexual abuse so as to provide a bank of practical information and a source from which advice could be sought and disseminated to various agencies. The value of the resource could be enhanced by occasional meetings of those who have been identified so that they could pool their experience and share their ideas in this developing field of work. In this way each of them would be in possession of a wide range of knowledge of current practice and experience. Such collection and dissemination of knowledge is recognised as needed by SWSG and ADSW. The creation of a national resource unit on multiple abuse is advocated by NSPCC in their written submission. RSSPCC in their written submission suggested the appointment of an independent manager over all the agencies involved. A central resource should be able to provide for the availability of such a manager in any appropriate case. It is recommended that a central resource should be established to provide a specialised skill in advice and management in complex cases of alleged child sexual abuse.

15.80 The practical development of such a national resource should most appropriately be the responsibility of the social work profession with the support of SWSG. Mr Chant accepted that ADSW could perform a useful role in creating such a resource framework on which people could draw. Support and assistance, professionally, financially and administratively to such a group would be required from central government and there is merit in a joint initiative of ADSW and SWSG to ensure that the resource can be set up and effectively operated. As has been already noted Article 19 of the UN Convention on the Rights of The Child imposes an obligation on States Parties to take appropriate measures to protect children from sexual abuse. It is consistent with that that support should be given by Central Government towards the securing of a central resource for advice and skilled assistance. This resource should constitute a useful point of referral for authorities requiring expert advice and assistance in a crisis or in a large and unfamiliar operation. It is recommended that ADSW with the support of SWSG set about the creation of a list of persons of expertise in child sexual abuse who could form a resource group whose numbers would meet occasionally to pool all current information on experience and practice in matters of child sexual abuse

and who would be available to provide advice or managerial assistance to all social work agencies in cases of particular complexity.

15.81 Beyond that the problem remains for a small local authority of finding additional appropriate staff to assist in complex child abuse cases. If workers who are to conjoin on a joint operation already have an established working relationship the greater will be the ease with which they can work effectively in an emergency. It may be that opportunities within Scotland or within geographically adjacent regions for training in child protection could serve to establish a good working relationship. It may be that the Directors of Social Work in Highland, Grampian, Orkney and Shetland and the Western Isles could arrange some means of achieving closer links between child protection workers in their areas, and arrive at some understanding of the common principles to be applied to a joint piece of work should they require to assist each other in the future. Such a co-operation is recommended by the British Association of Social Workers in their written submission. Matters of accountability, control, direction and extent of delegation would be discussed which not in any way detracting from the responsibility of the local Director to manage his own staff and services would be designed to enable him to discharge his responsibility to deal with such a particular problem as is currently beyond his own resources. Finding a solution through such local links it is to be hoped that the development of a central organisation for the profession in Scotland would enable the need for help to be passed quickly to all areas and the recruitment of assistants to be efficiently achieved.

15.82 There is a clear need in complex cases of sexual abuse to have available the advice of a psychiatrist or psychologist and there is an evident shortage of such a facility within the more remote areas. As D.I. Gough observed distance will always be a problem and no complete solutions can be provided. But a list of psychiatrists and psychologists who would be available to give advice when situations occurred requiring their assistance would be helpful as part of the central resource. The Area Child Protection Committees could usefully prepare and keep up to date such a list.

V. Research

15.83 The importance of research into child sexual abuse has been recognised by SWSG and indeed was listed as the first of the principal areas of activity proposed to be taken in their Circular SW9 of 1988. Mr Sinclair in his evidence recognised the necessity for research in the area of child protection. For many aspects of research there requires to be a bringing together of a variety of different disciplines and government departments and this calls for initiative and organisation as well as financial support. Those with practical experience in the field can recognise the priority of subjects and the urgency of the task. They should be given the initial responsibility of identifying appropriate subjects for research. Thereafter active promotion of co-ordination should be pursued by SWSG drawing together the social work profession and the relevant government departments, including the Scottish Office Home and Health Department and those concerned with higher education, and the relevant funding bodies so as to achieve greater clarity in the promotion of research into child sexual abuse, for the greater public awareness of the problem and the greater understanding of it by practitioners.

15.84 Again research is required into the existence, extent and nature of what may be labelled multiple or organised abuse, let alone the further branches which may involve matters of ritual or occult elements. While considerable research has been and is being pursued into the workings of various forms of multiple abuse there is still a great deal which is unknown or not fully understood by those who have to deal with suspected examples of it. Thus the reality of the fear that the correspondence sent to the W children contained so-called trigger words or inhibitors remains unexplored and the reasonableness of the suspicion requires further study. Allusions were made in the course of the evidence to several words or phrases as if they raised some veiled unease or suspicion. Plainly there is room for research and sharing of knowledge in this field.

15.85 One particular area for study and research should be that of the principles and methods of investigation of cases of alleged child abuse involving several children and possibly a multiplicity of adults. The NSPCC in their written submission recommend the collection of national statistics in multiple abuse by the central government and the development of research into that subject. This is a matter which could usefully be pursued by a joint working party of members of the social work profession and the police. It is recommended that, as it was the recommendation put forward by ADSW in their Report (3.3.4), 'the Scottish Office considers establishing a working group including experienced practitioners tasked to prepare guidance for both agencies as a matter of urgency and to build upon the general advice recently issued in England and Wales'.

15.86 One particular area of research which deserves consideration is that of the provision of personal social services in the Islands Authorities and the less populated areas. As ADSW have argued in their Report (7.1.15) people living in such areas are entitled to as good a standard of service as those living in other communities. The methods and the resource implication of achieving that are matters which deserve further study. It is recommended that research be undertaken into the provision of personal social services in the Islands Authorities and the less populated areas and the resource needs of these areas.

15.87 While much of the research requires to be undertaken by those working in the field the allocation of and authorisation of the necessary funds requires to be initiated by Central Government. The development of a secure and uniform system of social work in Scotland requires the contribution of ideas and the experience of practitioners but essentially the support and encouragement of the Scottish Office. The Orkney Islands Council urged in their final submission that the Scottish Office should take urgent action to encourage research into the subject of child abuse in Scotland. It is recommended that such action be now taken.

XVI REMOVAL OF CHILDREN TO PLACES OF SAFETY

I. The Power to Remove

(A) THE LEGISLATIVE PROVISIONS

16.1 There can be no doubt but that power should exist under statute for the removal of a child to a place of safety, but various concerns have been expressed in the evidence and in the submissions by parties regarding the present legislation as set out in particular in Section 37(2) of the Act of 1968. The removal of a child from the immediate control or care of the parents constitutes a significant invasion of the rights of the parent and of the child. While a power to remove a child requires to be available the limits of its exercise and the definition of its purpose must be certain, must be clearly known and must be appropriate to the seriousness of the course of action. Section 37(2) of the Act fails to meet these requirements. The Section specifies five classes of case where a child may qualify for removal to a place of safety. The first three all relate to the commission of any of the offences mentioned in Schedule 1 to the Criminal Procedure (Scotland) Act 1975. The fourth relates to the commission of an offence under Section 21(1) of the Children and Young Persons (Scotland) Act 1937. The fifth relates to lack of parental care. But while the Section provides that a constable or authorised person may take such a child to a place of safety the statute does not give guidance with regard to the occasions on which that power should be exercised.

16.2 The uncertain scope of the discretion embodied in Section 37(2) leaves open the opportunity for a child to be removed on the basis of suspicion and uncertainty. The scope of the discretion is excessive. Thus as the statute stands the way is left open for orders to be obtained and not used, a practice which Mr Chant recognised as one which in fact exists in some parts of Scotland. The particular provisions of Section 37(2)(e) which relate to any child 'who is likely to be caused unnecessary suffering or serious impairment of health because there is, or is believed to be, in respect of the child a lack of parental care' leaves the opportunity for a child to be removed on the basis of belief of lack of parental care which itself is so vague as to admit a range of differing opinions and standards and reinforces the anxiety already expressed about the unduly wide scope of the discretion.

16.3 Not only is the uncertain scope of the Section quite unsatisfactory for the operation of the Statute but it can be seriously maintained, as in particular Orkney Islands Council have done in their final submission, that it runs counter to the European Convention on Human Rights. Article 8 of the Convention provides as follows:

'8.1 Everyone has the right to respect for his private and family life, his home and his correspondence.

8.2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society ... for the protection of health or morals ...'

Article 16 of the United Nations Convention on the rights of the child provides:

'16.1 No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

16.2 The child has the right to the protection of the law against such interference or attacks.'

The failure to specify the scope and limits of the power to remove a child with sufficient clarity to enable the citizen to appreciate the occasions on which the power may be exercised may well run foul of Article 8 (see the Sunday Times case, 1979 2 E.H.R.R. 245 paragraph 49) if not also Article 16 of the Convention.

16.4 At times during the course of the evidence there appeared to be a recognition that an application for order under Section 37(2) was not solely governed by considerations of an immediate risk to the child but could be governed by other considerations and in particular by the desire to obtain evidence from the child with a view to pursuing further investigation and possible criminal prosecution. But it can be strongly argued that removal of the child to a place of safety and detaining the child there for the purpose of pursuing further investigation fails to meet the requirement in Article 8.2 of the European Convention in so far as it goes beyond what is necessary in a democratic society. The removal is not proportionate to the legitimate aim which is being pursued (*Silver v UK* 1983 E.H.R.R. 347 section 97). Quite apart from such considerations certain of the witnesses considered that a Place of Safety Order should not be used in the hope of obtaining evidence whereby a child might be retained in care. The contrast has been drawn between the detention of an adult for interview with the Police for up to six hours as permitted by Section 2 of the Criminal Justice (Scotland) Act 1980 and the detention of a child under Section 37(2) of the 1968 Act for perhaps up to seven days possibly for repeated interviews without any opportunity for consultation. Where the case is one only of suspicion and uncertainty removal to a place of safety should not be justifiable and an alternative course should be provided to facilitate further investigation. It is suggested later that this should be achieved by the introduction of a provision for an Interim Protection Order.

16.5 The only occasion on which the removal of a child to a place of safety should be permitted by the law is where there is a real, urgent and immediate risk that the child is otherwise going to suffer significant harm, whether physical, moral or psychological. This has been substantially recognised in practice in the past. Thus Mrs Maureen Hughes for one recognised that the Orders were usually taken in cases of emergency and she was concerned to see that the child was actually at risk. As 'Effective Intervention' states there has to be an imminent risk, a need for immediate action or an immediate danger (Section 3.16). The Act however does not specifically explain that the Orders are only appropriate to cases of emergency. The view was put forward by several parties including the ADSW that the provisions for Place of Safety Orders should be more tightly drawn.

16.6 Section 37(2) looks to the existence of a specified state of affairs, in four of the five cases specified the commission of an offence, or a belief in the existence of such a state of affairs. It does not state that the belief requires to be a reasonable belief but it should at least be implied that it is an honest belief. If any question arose as to its honesty reasonableness would doubtless be a relevant consideration. But the various states of affairs or the belief in them which are detailed in the Section obscures the essential character of the remedy. The true reason for removing a child is not that such particular offences have been committed or are believed to have been committed but that it is immediately anticipated that such an offence is about to be committed again. The removal of the reference to the commission of offences or the belief that they have been committed would remove the problem of the relevant standard of proof not only in relation to the commission of the offence but in relation to the existence of the belief (*Harris v F* 1990 SLT 242). In relation to Section 32 Professor Bissett-Johnston has advocated a less subjective and judgmental formula such as has been adopted in the Children and Family Services Act of Nova Scotia 1990. I am not immediately concerned with that Section but the principle of the approach is to be commended in relation to Section 37. It is accordingly recommended that in place of the five sub-paragraphs (a) to (e) inclusive set out in Section 37(2) of the Act there should be substituted some such description as follows:

'Where there is reasonable cause to believe that the child is likely to suffer imminent and significant harm of any kind and will not enjoy adequate protection from such harm if not at once removed to or retained in a place of safety'.

16.7 Beyond that even within the limits of such a formula some guidance is required on the occasions on which the discretion to remove should be exercised. Enforcement of a Place of Safety Order is plainly a potentially traumatic experience for all the persons involved and not least the children. It is a step not lightly to

be taken. Where a child is visibly at certain and immediate risk of suffering harm then the step can be readily justified and the removal can be seen as less injurious than the immediate harm the child would otherwise suffer. But child sexual abuse is usually covert and the risk is not usually detectable as an imminent risk. The remedy must however be available in cases of sexual abuse as well as any other kind.

16.8 It is not to be forgotten that a child does have a remedy at his or her own hand. There should be a greater public and professional awareness of the possibility of the child himself or herself initiating proceedings either by self-referral to the Reporter or by taking refuge in a place of safety. The opportunity exists and how such cases should be handled is a matter for professional training and education. It is recommended that in all training and education in matters of child abuse account should be taken of the opportunity which a child has, to take steps for his or her own protection.

(B) THE OCCASION FOR THE ORDER

16.9 Removal of a child in a case of alleged abuse is not a remedy of first resort but rather a remedy to be adopted after all other courses have been considered and found to be inadequate. It may be that the abuser either voluntarily or compulsorily may leave the house so that the continued residence of the child is not perilous. It may be that there is a sufficiency of protection within the home so that once others are alerted to the danger the child may be left under the same roof as the abuser but safe. It is only if there is a likelihood of abuse being committed against the child and there is no alternative way of removing that risk but to remove the child that the Order should be sought. It is recommended as matter of guidance that the removal of a child should be recognised as a course to be considered where no alternative exists and the urgency of the risk requires it.

16.10 Even where serious harm in the form of sexual abuse is anticipated it does not follow that a Place of Safety Order should be immediately obtained or enforced. It may yet be necessary in the eventual interests of a child to hold back and secure the sufficiency of evidence before taking action. If a child is removed and later because of insufficient evidence returned to the control of the abuser the child may well become all the further removed from helpful assistance by such an ineffective intervention. It was recognised in the evidence particularly in cases of organised abuse that the removal of a child and then the return of the child to the former situation is more damaging than leaving the child where he or she presently resides. The return of an abused child may well reinforce the power of the abuser over the child and make the abused child less likely to disclose that abuse in the future. The matter is eventually one of professional judgement based on adequate planning and discussion but the element of caution is not to be underestimated.

16.11 The point just discussed touches on one to be considered later, namely the relationship between the place of safety procedure and referrals to a hearing. In the minds of some witnesses these two procedures were so closely associated that they saw the test for obtaining a Place of Safety Order as requiring a reasonable assurance that the child was in need of compulsory measures of care before such an order was obtained. Thus a Place of Safety Order was seen as the beginning of a process and not to be utilised unless there were fairly solid grounds on which the subsequent action would be based. But that consideration should not obscure the fact that in all cases the prime consideration is the safety of the child and while the eventual desired solution should not be lost sight of the critical test for the Place of Safety Order must be whether the current circumstances pose so grave a threat to the child's welfare that there is no alternative to the child's removal.

16.12 Anyone applying for an Order for the removal of a child must carefully assess the evidence on which they are seeking it since it is essentially on their initiative that the Order is being obtained. In a situation of urgency there may be little or no opportunity to seek advice. Whether the Reporter should give advice at all at that stage is considered in a later chapter. Nor can the burden be passed on to the Sheriff or JP who necessarily has to rely on a statement by the applicant, is not there to serve as an adviser and while able to form an objective view is less well placed to explore the situation or ascertain the facts than is the applicant.

It is accordingly essentially the applicant who must be satisfied honestly and reasonably that the removal of the child at that particular stage is necessary for his or her safety. The judicial authority is, as Mrs Kathleen Marshall of the Scottish Child Law Centre described it, of symbolic rather than practical value. Of course there may well be occasions when the Sheriff or JP may not be persuaded by the presentation that an order should be granted. But the extent to which such a check is available depends critically and significantly on the completeness of the presentation which is made by the applicant. Essentially the practical decision that the child ought to be removed is one on which the applicant must be wholly satisfied. It is recommended that as matter of guidance it should be clearly recognised that it is for the applicant to satisfy himself or herself that the situation calls for immediate removal of the child.

- (C) THE NAME OF THE ORDER **16.13** Since the grounds for the order which is proposed are somewhat differently framed from those of the current Place of Safety Order it would be reasonable to find a new name for the new order. At least for convenience the term Child Protection Order will be used in this Report. Whatever title is selected it is suggested that the title to the corresponding Order in English law should not be adopted because to do so might well lead to the one being confused with the other. While the suggested terminology of the grounds for the justification of such an order might well be the same or substantially the same the procedures relating to them are significantly different.

II. Procedure

- (A) RECORD OF DECISION **16.14** A record should be kept by the Social Work Department of the grounds for any decision taken by their staff to seek a Child Protection Order and of any documentary material on which the decision has been reached. In many cases the application for the Order and the Order itself should contain an adequate record of the grounds on which it was sought and the grounds on which it was granted. The former should serve as an adequate record of the grounds on which the decision to remove a child has been taken. In more complex cases a separate record may well be required. Whatever be the form of the record a note of the grounds of the decision should be preserved in the file appropriate to the particular child. It is accordingly recommended as matter of guidance in practice that a record should be kept of the grounds for any decision to seek a Child Protection Order.
- 16.15** If the proper occasion for a Child Protection Order is an occasion of urgency then in the usual case there will be no hesitation in the making of the decision. Immediate action will be seen to be required and immediate action will be taken. There should not normally be cases where there is immediate risk to the child and the child is not immediately removed, but circumstances might exist where the absence of placements or the need to take preparatory steps makes immediate action impossible. But even in such a case the decision should be a clear and conscious process and it would be prudent to record its making and the thinking behind it in writing so that there is an express record of these matters. It is recommended that in any case where it is considered that a Child Protection Order should be executed but it cannot be effected immediately a clear written record should be made of the decision to obtain it, the reason for it and the reason why it cannot be immediately effected.
- (B) EVIDENCE **16.16** No Child Protection Order should be sought or executed unless there is clear and cogent evidence to support it. A personal conviction, an intuitive belief or an unsubstantiated concern is not sufficient for the removal of the child. Whoever embarks on the course must be able to present evidence from which the need to remove the child can be reasonably inferred by a Sheriff or JP. A corresponding view has been taken in England with reference to care orders (in re F (to wardship: jurisdiction) 1988 2FLR 123, 128; H v H (minor) (child abuse: evidence) 1990 Fam 86, 101). It is recommended that as matter of guidance Child Protection Orders should only be sought where there is clear and cogent evidence to support the order.

16.17 It should be recognised that the removing of a child to a place of safety may not necessarily lead to a long-term separation of the child from his or her home. Circumstances may so change as to make it safe for the child to be returned after a short separation. The considerations which justify the removal are not necessarily the same as those which may lead to a Referral. It would be incorrect in general to require evidence to justify a long-term retention in care for the purpose of a Child Protection Order. However in some cases of child sexual abuse it has to be remembered that the return of the child to an abusing parent may lead to the greater harm being done and in such cases the evidence available to justify the removal of the child should be such as should be sufficient to give a reasonable expectation of securing the child's retention in care. It is recommended as a matter of guidance that where there is a likelihood of harm continuing to the child if he or she is not retained in care the evidence should be sufficient to give a reasonable expectation of securing that, after a referral to the Children's Hearing.

16.18 When an application is made for an Order to a Sheriff or JP it is evidence which should be presented albeit informally. The whole of the evidence which the applicant believes supports the contention that circumstances exist which give rise to the likelihood of the child suffering significant harm must be placed before the Sheriff or JP. The JP or Sheriff does not require to conclude that any allegations of abuse or ill-treatment are in fact established. He must assess the weight or value of any indications of earlier incidents of abuse but he has in considering the application to satisfy himself that there is reasonable cause to believe that the child is likely to suffer significant harm if the application is not granted. The standard should be no higher and may well be lower than that required to establish grounds for referral, but again it must be stressed that the critical consideration is the imminence of risk. It is recommended that as a matter of guidance the Sheriff or JP does not require to reach any judgement on the balance of probabilities of past abuse or ill-treatment where that is alleged but must be satisfied on the whole material which is placed before him or her that there is reasonable cause to believe that the child is likely to suffer significant harm if the child is not removed.

16.19 There were some views expressed by witnesses in the course of the evidence about the amount of evidence required for the application for a Child Protection Order. The word corroboration was used in that connection but it is plain that there is no formal necessity and should be no formal necessity for there to be evidence from two distinct sources before an Order for the removal of the child can be obtained. It may be that in some cases the allegation which might seem to call for the removal of a child may come from a source which is for some reason open to doubt or suspicion as to its reliability and in such a case it may well be proper to look for a second source of evidence before acting. But in such a case the second source is merely required to fortify the substance of the evidence and is not a formal necessity. On the other hand if evidence is available from more than one source and there is no reason to doubt any of the sources the confidence to be put in the allegation would be all the greater. It is recommended that as a matter of guidance and for the avoidance of any doubt it should be stated that evidence from two or more separate sources is not a formal necessity for the obtaining of a Child Protection Order.

(C) WHO GRANTS THE ORDER?

16.20 Section 37 currently provides that the Order may be granted by any Court or by any Justice of the Peace. The suggestion has been made that in the case of child sexual abuse it should be the Sheriff and not a Justice of the Peace who grants the Order. There are however some practical problems involved if this is made an absolute requirement. There would certainly be practical difficulties in some areas if all Orders were to be obtained from Sheriffs either on account of the burden of work already imposed upon them or because of geographical problems in rural areas. A restriction of the requirement to cases of child sexual abuse might provide some relief from the former difficulty, but a problem remains with the latter. It was suggested by Orkney Islands Council that this might be met by the use of Fax and the telephone but in remote areas these mechanisms may not at present be instantly accessible in cases of urgency. Further an absolute prohibition on obtaining Orders from JPs in cases involving sexual abuse might lead to matters

of technical competency depending on precise definition which would be undesirable. It may not always be possible to draw clear dividing lines between physical, sexual and emotional abuse. Mr Chant indeed wished to avoid making such a distinction. The merit of having a Sheriff's determination is however strong in the delicate and difficult area of sexual abuse even if it be recognised that the determination may be of symbolic rather than practical significance. It is recommended that Child Protection Orders should be obtained either from a Sheriff or a J.P. but that as a matter of guidance and practice where the case is one of suspected sexual abuse the Order should if practicable be obtained from a Sheriff.

16.21 A suggestion was made by the Association of Reporters to Children's Panels that further training for Justices of the Peace should be undertaken. The Association stated this is already offered by Reporters in many areas and others would be delighted to offer similar assistance. It is recommended that encouragement be given to further training of JPs.

(D) WHO MAY OBTAIN THE ORDER? **16.22** Section 37(2) of the 1968 Act empowers a constable to remove a child to a place of safety without any authorisation or alternatively 'any person authorised by any Court or by any Justice of the Peace'. In practice the vast majority of Place of Safety Orders have been sought and enforced by social workers with or without the assistance of the Police. A local authority may constitute the person who applies. However there are some cases where a constable has removed a child and that power should remain. Moreover there is no good reason for restricting the scope of the Section to social workers or constables. The opportunity for any person to apply provides a useful provision for a third party in the rare but possible case where no other resource is available. It enables a Reporter to apply and that also may on occasion be convenient. It is accordingly recommended that no change be made so far as concerns the definition of the persons who may remove a child to a place of safety.

16.23 Notice should also be taken of the provisions of Sections 14 and 323 of the Criminal Procedure (Scotland) Act 1975 whereby a Justice may issue a warrant authorising a constable under certain circumstances to search for a child, take the child to and detain him or her in a place of safety. For this purpose certain information requires to be given to the Justice on oath. These Sections should be retained as serving a distinct purpose where powers are required to search and enter premises from which the child is to be removed. Consideration should however be given to the desirability of amending these Sections so as to bring them into line with whatever terminology is used to describe the circumstances under which a child may be removed under Section 37(2) of the 1968 Act.

(E) APPLICATION **16.24** An application for a Child Protection Order should be made in writing. Since the Order is to be sought as a matter of urgency it is essential that the form for application for such an Order should be not only standard but simple. The form which has been prepared for use in connection with the English Order is too elaborate and too complex and a far simpler and shorter style should be designed for use in Scotland. The completing of a complex form could well lead to unacceptable delay. It is accordingly recommended that a simple standard form be designed for applications for Child Protection Orders in Scotland.

16.25 The application form should include a brief written statement of the facts which constitute the grounds for the perceived risk to the child. If time does not permit the immediate preparation of the written statement then this should be submitted within a short period perhaps forty-eight hours after the Order has been obtained on an oral presentation. The factual basis of course may or may not be similar to any later grounds for referral. As Mr Lee accepted the written statement would focus the mind of the social worker on the information on which reliance was placed, would assist the Sheriff or JP in determining whether or not to grant the Order and would provide a contemporaneous record of the facts. It is accordingly recommended that at the time of making the application or if necessary within forty-eight hours of the Order being pronounced a written statement of facts setting out the grounds for the perceived risk to the child should be prepared and presented to the Sheriff or JP.

16.26 It has been suggested that the information put before the Sheriff or JP should be in the form of an affidavit. The preparation of an affidavit however might well be too time-consuming to be appropriate to an emergency situation. A preferable alternative would be a requirement simply for the information to be given on oath as is required by Section 14 of the Act of 1975. However it does not appear that any problem or difficulty has arisen with the existing practice whereby the information is not supplied either on affidavit or on oath but simply on an oral presentation. It is recommended that the evidence need not be given on oath or affidavit by the applicant seeking a Child Protection Order.

16.27 The Order should itself be in as simple a form as practicable. In addition to disclosing the details of the grant, the date, the identity of the granter and the substance of the authorisation, it should set out concisely the grounds on which the Order has been granted. This should not be simply by reference to the statutory provision but should comprise a brief statement of the factual basis on which the conclusion has been reached that the Order should be made. It is recommended that in addition to the other necessary details the Order should contain a brief statement of the grounds on which it was granted.

(F) INTIMATION

16.28 Advance intimation to the parents of the child is not always practicable. When the child is located the parents at the time may not be in a fit state as for example on account of intoxication by alcohol or drugs to understand what is happening. In an emergency situation advance warning will rarely be practicable. What is required is an early opportunity for the parents to obtain a variation or cancellation of the Order. This matter is considered later in Chapter 18.20 in relation to the first lawful day hearing where it is suggested that the matter may be brought before a Sheriff (preferably the Sheriff who granted the Order) or any time within seven days after the grant. It is recommended that the parent or guardian and the child should have an immediate opportunity to have the Order varied or cancelled by the Sheriff.

16.29 Such an early opportunity for cancellation would not supersede the Reporter's power to discontinue the detention under Section 37(3)(c) of the 1968 Act or Section 14(2)(a) of the 1975 Act. That power was recognised by Mr Chant as a welcome safeguard. The power in the Reporter however should also be qualified by the condition that he considers that the return of the child from the place of safety would not expose the child to the risk of significant harm. It is recommended that the Reporter's existing power should continue but be qualified in its exercise by the proviso that the return of the child would not expose the child to the risk of significant harm.

16.30 Where a Child Protection Order has been granted it should be immediately intimated both to the Police and to the Reporter for their respective interests. With the intimation there should be sent the application and any documents which were presented to the Sheriff or JP. It was suggested that the application for an Order should be intimated to these parties but that would be an unnecessary act of administration in the event of the Order not being granted. It is proper for the Police to be informed if the Order has been granted because of the possibility that some crime has been committed. It is also proper for the Reporter to be informed because the grant of the Child Protection Order implies that the child may be in need of compulsory measures of care. It is recommended that a Child Protection Order together with the form of application and any supporting documentation should be intimated both to the Police and to the Reporter.

16.31 Consideration of the powers of control and management of the children in places of safety is explored in a later chapter but in the present context it may be noted that the occasion of the grant of a Child Protection Order should be the occasion for the obtaining of any orders which are considered appropriate in the circumstances. Such orders could include the granting of an authority to have medical or psychiatric examinations of the child carried out on such terms and conditions as would be specified, the granting of authority to permit investigative interviews of children again under such terms and conditions as should be specified or some particular provision regarding restraints on access to the children by some specific person or persons. It is to be noted that Child Protection Orders should

not be sought in order to obtain such authorisations or have such inquiries carried out. The proper procedures for that, as is suggested later, is by way of an Interim Protection Order. It is recommended that on the occasion of the grant of a Child Protection Order such authorisations or supplementary orders as may be appropriate to the circumstances should also be granted.

16.32 A particular question arises whether the parents should be informed of the addresses of the places of safety to which their children have been taken. It has been submitted by Orkney Islands Council that Article 9.2 of the United Nations Convention applies here. It is a proper matter for the Sheriff or J.P. to consider when granting a Child Protection Order and if the address is to be withheld that should be made an express condition in the Order. It is recommended accordingly that where the address of the child or children should be concealed from the parent that should be specifically ordered at the time of the grant of the Child Protection Order with or without a limit on the period for such concealment.

- (G) **THE PERIOD OF THE ORDER** **16.33** Concern has been expressed that Place of Safety Orders have in the past been obtained and not implemented. The Review of Child Care Law recommended that they should be implemented forthwith or discharged on reference to the Reporter. Orkney Islands Council have suggested that they should be valid and enforceable for a precise period which it was suggested should be seven days. The Child Protection Order should be seen as a step only to be taken in a case where the anticipated harm is imminent. The Order should accordingly not be expected to have a life of any significant period. Allowance should be made for delay in execution where some unforeseen circumstance occurs necessitating such a course but such occasion should be exceptional. It is recommended that such Orders should be enforceable only within a period of three days from the date of the grant.

III. Enforcement

- (A) **TIME FOR ENFORCEMENT** **16.34** The time of day at which Place of Safety Orders have been executed is one aspect which has caught public attention. In the present case consideration was given to the problem but no better time was found than an early hour of the morning. The view was also expressed in the evidence that there is no good time to remove a child although some times might be better than others. Where the circumstances are such as to justify an immediate removal of a child the precise time of day or night may not be a critical consideration against the urgency of the situation. The matter is one which has to depend on assessment of all the considerations applicable in the particular circumstances bearing in mind that the prime object ought to be to minimise the risk of trauma to the child since it is the child's welfare which must be given the priority. It is recommended that for the purposes of guidance it should be stated that the time for the removal of the child must depend upon the whole circumstances of each particular case but that the prime consideration must be the welfare of the child.

- (B) **BRIEFING** **16.35** While in very many cases the operation of removing the child is relatively simple and requires no elaborate planning or co-ordination there can also occur cases such as the present where a substantial degree of planning and co-ordination is required. In such cases it is useful for detailed plans and instructions to be prepared in writing so that all those directly involved can be confident of the precise terms of the relevant instructions. This is particularly valuable for those engaged in the operation who have not had any prior involvement in or knowledge of the case. Such a written brief was prepared for the members of the police force involved in the Orkney operation but not for the social workers. Where an operation is planned and executed jointly between two or more agencies a written brief for the use of all those taking part would be useful. It is recommended that at least in complex cases of removal into places of safety those involved should be given full written instructions.

16.36 Furthermore information about the places of safety to which the children are to be taken should be given to the social workers removing the child in order

to assist in preparing the child for the placement and to enable the social worker to answer any questions by the child or a parent about the place of safety. Again it would be convenient for this information to be available in writing but practical considerations may make that impossible. At the least the social worker should be possessed of the information. There will necessarily be cases where the child requires to be immediately removed and it is only after the removal that the search for a placement can be made and a suitable placement found. The information about the placement cannot be expected to be available before the removal in every case and the guidance must recognise the practical problem. It is recommended that as a matter for guidance social workers and police officers removing children to places of safety should when practicable be given sufficient information to enable them to inform the child and the parent about the place of safety.

16.37 The social worker or police officer removing a child should also be provided with information on the background of the child in question. Where practicable such information should be available in writing so that not only may the social worker be informed but the written note may also be available for the use of the foster carer. It is recommended that as a matter of guidance where practicable written information should be available about the background of the child for the use of the social worker or police officer removing the child.

(C) INFORMATION TO BE
GIVEN

16.38 One matter which caused some concern to the parents in the present case was the relative lack of information which they were given. So far as the Place of Safety Order was concerned a copy was shown to them but a parent may well not be able to grasp all that is written in such a document in the disturbance and turmoil of a sudden removal of a child. It would obviously be of advantage for a copy to be available for the parent to study. The copy should disclose the name of the applicant for the Order, the name of the person granting it, the date of the grant and the grounds on which it was granted. It is accordingly recommended that a spare copy of the Order be available to be given to and left with the parent when the child is removed. If one or both parents are not present at the time it should be delivered to them at the earliest practicable time.

16.39 In addition to the copy of the Order an explanatory document should be prepared and be made available to the parent explaining the rights which the parent has in the circumstances, the procedure following removal to a place of safety, such as the provisions for appeal, the duties of the Reporter and the timescales involved, and the name and telephone number of the person from whom information can be obtained about the child and who can advise which particular member or members of the social work staff should be contacted. Useful contact addresses such as the Reporter's Office, The Law Society, the Citizen's Advice Bureau or other local advisory agencies could also be included. A leaflet about the Children's Hearings system should also usefully be supplied. The document should be left for or sent to the parent if he or she is absent when the child is removed. This should be a mandatory requirement in all cases. It was suggested by Orkney Islands Council that information should be included of such details as the place to which the child had been taken, any examinations and interviews which the child was to undergo and any arrangements made for access. It would however be time-consuming and in some cases impracticable to set out such detail and the document should be of general application and not related to the specific circumstances of a particular case. It is accordingly recommended that in addition to a copy of the Child Protection Order a clear explanatory document should be made available to the parents.

16.40 After the removal of the child it is important that contact should be made and kept by a social worker with the parent or parents or guardians of the child. A particular social worker should be immediately identified to work with the parents or guardians, and he or she should make immediate contact with them and explain the situation to them. The social worker should remain in regular contact with them during the period for which the child is in a place of safety. It should be recognised that such a worker may require to face considerable personal hostility and it should also be recognised that cases can occur where it becomes unreasonable for a social worker to work with or through such hostility

unaided. Management should be ready to assess the level of risk to a social worker and may need to work out ways and means of overcoming the problem, as by enlisting the advice or assistance of other agencies or by seeking contact at some neutral location. It is recommended that guidance be given on the need for such contact to be maintained with the parent and the method of securing that contact despite the risk of hostility which the worker may require to face.

16.41 It is desirable that all carers should have the fullest possible information about the background of the child and of the names and addresses of the persons to be consulted if any problem arises. The carer should be given on the arrival of the child a copy of the Child Protection Order, such information about the child's background as is available, in writing if practicable, and a note of those members of the social work staff directly concerned with the child and with the parent. It is recommended that as a matter of guidance the fullest possible information about the background of the child should be made available to the carer together with such administrative detail as the carer will require for the well-being of the child.

16.42 A question was raised whether special forms should be devised for use where a child is taken to a place of safety or whether the standard sets of forms which have been printed for completion in the case of children received into care should be completed. The emergency situations which warrant taking the child to a place of safety make the information gathering required by such forms at the time usually impracticable. No difficulty should exist in practice in securing that essential information about the health of a child is obtained either later from the parent or the child's GP or through a general medical examination and the requirement to complete a special form such as the Reception into Care forms should be an unnecessary exercise in cases of removal to places of safety. On the other hand even although not strictly appropriate at that stage where a child is in a place of safety as opposed to being in care the RIC forms provide a convenient method of recording such information as is available on a removal to a place of safety and may be carried on if the child is eventually taken into care. It is recommended that no special forms be required when a child is removed to a place of safety but that where occasion permits the Reception into Care forms should be completed so far as possible to reflect the information available. The continuation of Child Protection Orders is considered in Chapter 18.21.

IV. Interim Protection Orders

16.43 While examination and interview may be carried out where a child has been removed under a Child Protection Order there may well occur cases where the available evidence does not justify the strong action of removal but where in the interest of the child or of possible criminal prosecution investigation involving access to the child is justified and access is not being given. There is clearly room for the introduction of some compulsory powers both to assist in the investigation of cases of suspected abuse and to achieve immediate temporary measures of protection where particular occasion requires such solutions. So far as investigation is concerned there clearly can arise cases where there are strong suspicions of child abuse but voluntary co-operation is not available and investigation can progress no further. If the child is not seen to be at such risk as to justify removal under a Child Protection Order the investigation may require to be halted. However if there are good grounds for anticipating that an interview of the child or examination would be of positive assistance in advancing the interests of the child then in such cases some power to have a child interviewed or examined (or both) is considered desirable. Such a power has been recently introduced in England under the name of an Assessment Order.

16.44 There is merit in securing the availability of a wide range of powers to meet the necessities of particular circumstances beyond the particular matter of investigation. The idea was advanced by Mrs Rachel Burn in her written submission that a new flexible order should be available authorising limited intervention without necessarily requiring the child to be removed from home for any significant length of time. Provision could be made under such an order for allowing

the child to be interviewed or examined or be regularly visited, access to or by the child could be controlled, or an order could be made prohibiting the removal of the child out of the jurisdiction of the Sheriff or the Children's Hearing. It is suggested in Chapter 15.51 that power should be obtainable to require a parent to remove from a house where the Court is satisfied that such a course is necessary in the child's interest. This could be included among the orders available. There should be advantage in the availability of a wide range of powers which would usually be of an interim character pending further investigation. It is recommended that a procedure be introduced for application to the Sheriff to obtain orders in appropriate cases either for purpose of investigation or for the immediate protection of a child pending investigation. It would be confusing to use the term assessment order as the purpose is wider than that of the English order. The title Interim Protection Order which is the descriptive mentioned by Mrs Burn may serve adequately.

16.45 It is essential that notice of the application be given to the child and to the parents and that they be given an opportunity to oppose or agree to the grant of the Order. Thus the Order should not be available to be used by surprise or without warning. The application should specify what is intended to be done and the Order if granted should authorise what is to be done. A standard form should be prepared for the application and for the Order. It is recommended that the application be intimated to the child and to the parent and that they be given an opportunity to object to it.

16.46 Guidance will be required on the circumstances under which it would be appropriate to seek an Interim Protection Order. It is not a course to be adopted as a first resort. Every other alternative should be explored or exhausted before recourse is had to it. Such Orders however are not to be sought lightly or without solid reason for anticipating that they will be productive of information or are necessary for temporary protection. As has already been suggested in Chapter 15.42 the possibility of interviewing and discussing suspicions or allegations with the parents or other adults should be considered before inquiries are made of the children. It would be desirable that discussion between various agencies should take place before the decision to seek such an Order is made. When in a child abuse investigation an initial inter-disciplinary meeting is held the course is one which could then be canvassed. It is recommended that guidance be given on the matters to be considered before resort is had to an Interim Protection Order.

XVII CHILDREN IN PLACES OF SAFETY

I. Management

- (A) CONTROL **17.1** While Parliament has provided for the detention of a child in a place of safety under both the 1968 Act and the 1975 Act no provision is made by statute for the control and management of the child while so detained. In practice the period should be short but if the grounds for referral are challenged there can well be a period of weeks while the child is detained. In practice no doubt the general welfare of the child is satisfactorily managed but as the present case has shown problems can and do occur. Although the circumstances of the present case were highly special it may be desirable to have the position formalised and clarified. The problem may extend to other cases where a child is in care and parental rights have not been assumed by the local authority. Such cases have not been the subject of the present Inquiry but there seems no reason why the same provisions should not be made applicable to all such cases.
- 17.2** Section 20 of the Act of 1968 provides an express duty on the local authority to further the interests of any child in their care. But a child removed to a place of safety is technically not in their care. One course would be to extend Section 20 to apply to such cases. But it is desirable to preserve the position of a child under a Child Protection Order or an Interim Protection Order which is invariably temporary as distinct from that of a child received into care which may be a much longer responsibility. It is recommended that when a child is removed under a Child Protection Order the local authority shall be under the same obligations as are set out in Section 20(1) and (2) of the Act of 1968. Strathclyde Regional Council suggested that a distinction should be made between children placed with a relative and children placed with a foster carer but it is thought preferable to impose the same obligation on the local authority in each case.
- 17.3** In addition to a duty to maintain the child the local authority will also require to have certain powers in particular circumstances. Control may strictly remain with the parent and there may be difficulties in obtaining parental consent or approval for matters of every day care or on such things as the interviewing of the child, medical examinations or access by psychologists or other persons. One way of achieving this is for specific power to be obtained from the Sheriff either on the granting of the relevant Order or at a later stage after the child has been removed. The parent would have an opportunity to challenge the application, and the Sheriff's decision would be open to appeal. It is recommended that in cases where consents are required and parental consents are not forthcoming specific powers be obtained from the Sheriff.
- 17.4** Provision must also be made to resolve any disputes that might arise or any matter regarding the care of a child under a Child Protection Order. Articles 6 and 13 of The European Convention require such disputes to be resolved by an independent and impartial tribunal. It is considered that all these matters should be resolved by the tribunal which has ordered the current disposal of the child, that is the Sheriff in the case of a child in a place of safety and the Children's Hearing in the case of a child who has been made the subject of a supervision requirement. It is recommended that procedures be provided for the resolution of any disputes regarding the welfare of the child by the body which has last given directions regarding the child.
- 17.5** In practice it is understood that the social work department usually take over the management of children to be taken to places of safety and while this may not invariably be the case it is appropriate that they should be the branch of the local authority responsible for the care of any child taken to safety. This

will occur readily enough in the vast majority of cases where the child is removed by a social worker. It is recommended that any Order authorising the removal of a child should make the person so authorised bound to intimate the removal and the whereabouts of the child to the appropriate social work department.

17.6 Provision should be made for the rare or even exceptional case where the child is removed by a constable or, with the authority of a court, by another person. It is recommended that any constable or other person removing a child should intimate the removal to the local authority's social work department and inform them of the whereabouts of the child immediately on the child's removal.

17.7 It would be appropriate also to secure that consideration is given to the views of the child in all matters affecting him or her. Such a provision would be in line with the provisions of Article 12 of The UN Convention on The Rights of The Child. An express obligation to consult the child where appropriate would assist in securing that the child himself is not overlooked in the process and procedure of the various agencies professing to securing his welfare. The weight to be given to the child's views must vary with the child's age and understanding. In cases of emergency action may properly require to be taken without advance consultation but even in those circumstances attention should always be paid to the views of the child himself. If, as has already been suggested, the provisions of Section 20 are to apply this point may be sufficiently covered.

17.8 Where no suitable placements exist within the child's own area and he or she requires to be placed within the area of another local authority there require to be clear arrangements made for his or her care. Procedures may well already be in place for securing the efficient care and management of a child in such circumstances. To ensure that the potential problems in responsibility and communication do not arise the two authorities should agree on their respective roles and responsibilities. There should be written terms on which the placement is provided and there should be clear lines of responsibility and communication. The main areas for agreement are already contained in The Boarding-out and Fostering of Children (Scotland) Regulations 1985. It is recommended that social work departments should have a clear mutual understanding of the roles and responsibilities of those involved in the care of a child placed outside the area of the child's own local authority.

17.9 One critical omission in the present case which was felt especially in Strathclyde was the absence of a social worker specifically allocated to the children. It is important that there be no problem in the lines of communication with the child and the child's immediate carers. Where a child is placed in a different area from that to which he or she belongs it is the more important that there should be an identified social worker who can serve as a link both to the home and the host authorities. This is a link which the safeguarder would also require. Ideally the social worker should be a member of the local authority in the area from which the child comes so that the links with the family can be preserved and continuity ensured after the placement has ended. In the exceptional case where distance makes that impracticable a social worker should be identified from the host area. The child's social worker should secure that particularly where the child does not attend a Children's Hearing the child is kept informed of the procedures and decisions of the hearing and of the grounds for referral to the hearing. It is recommended that where any child is placed outside the area of its own home authority a social worker preferably of the home authority should be identified and allocated to that child.

(B) SAFEGUARDERS AND CURATORS

17.10 Policies and guidelines and procedures are all necessary aids in any work relating to child abuse. But they are only aids. The more complex and elaborate the formalities become the greater is the risk that the needs of the child may be neglected and the interests of the one person to whose care the machinery should be devoted may become obscured in procedural formalities and other concerns. Under no circumstances should sight be lost of the child. Wherever necessary there should be someone who can without distraction ensure that the child's interests are protected. In the present case as D.C.I. Gough observed there was

a risk of the care of the child falling between the Social Work Department, the Reporter and the Police.

17.11 The existing system seeks to overcome this danger by making provision for the appointment of a safeguarder. However the Scottish Child Law Centre in their persuasive paper presented by Mrs Kathleen Marshall point out that the role of the safeguarder is a very limited one, that in practice consideration is not always given to the appointment of one and that the criterion for appointment, a conflict of interest between parent and child, is very restrictive. They point out that the role of the Reporter is circumscribed by his statutory duties and the social workers cannot exercise a function independent of their department so as to be committed solely to pursuing the best interests of any particular child. As the Scottish Child Law Centre point out 'the call for an independent person for the child is not a criticism of social workers, but a recognition of the institutional constraints placed upon them. Nor is it a duplication of the function of the Reporter or member of the Children's Panel, but rather an extension of the same principle'.

17.12 The case for such a reform in relation to the work of the hearing in cases of child offenders has formed no part of the present Inquiry's work and it would be inappropriate to make any comment on what may or may not be required in that context. Similarly while there may well be a good case for securing a more regular appointment of a safeguarder and giving that safeguarder a wider role and responsibility generally in cases of child protection it would not be appropriate to present a firm recommendation beyond that the matter be further explored. In the context of Child Protection Orders however it is considered that the presence of a person independent of the agencies involved in the case and with a more enhanced role than that of the present safeguarder would provide a valuable safeguard for the child's interests. It is recommended that in all cases of Child Protection Orders there should be an opportunity for the appointment of an independent person with a role wider than that of the present safeguarder to protect the child's interests.

17.13 The role requires to be wide ranging, including the making of investigations, following the child through the implementation and review of decisions, following up the case to ensure that the child's needs are attended to and reviewed when necessary, securing that the child is informed of the grounds for referral, representing the child at hearings before the Sheriff and later before the Children's Hearing, and advising the child on the child's rights and interests. The safeguarder might on occasion be on hand when the child is being interviewed. The role is one to be developed out of the existing institution of the safeguarder. This will require some increase in the number of persons ready and able to act as safeguarders when occasion requires. It will also require provision for the training of such persons. Consideration requires also to be given to the particular expertise required of a safeguarder which may vary from case to case. The stock of available persons should include those with skills in law as well as in work with children. This may well be an area in which use could be made of the expertise of teachers as is mentioned later in 19.16. It is recommended that all local authorities should explore the sufficiency of their supply of persons able and willing to serve with such a revised role in the capacity of safeguarders and if that supply is deficient should take steps to recruit a greater number and arrange training for them.

17.14 It is not suggested that in every case where a child is removed to a place of safety a safeguarder must be appointed. Guidance could usefully be given on the kinds of case where the appointment may be unnecessary, as for example where all the interested parties including the child, where the child is of an age and maturity to understand the position, are in agreement that no appointment need be made. In some circumstances a parent may be a capable and appropriate person to secure that the child's interests are safeguarded. But that may not always be the case. Again it may be appropriate to make an appointment in any case where access to the child has been refused by the Court under the Child Protection Order or perhaps where the grounds for referral have been challenged by the parents but are upheld by the Sheriff. There may well be many cases where the Court can be satisfied that no appointment need be made. But the general rule should be that the making of an appointment should be always in mind.

17.15 It was suggested that safeguarders might be appointed at the earliest stage so as to be involved even in the taking of a Place of Safety Order in order to safeguard the rights of the child. But in an emergency situation such a course would be barely practicable. Certainly as Mrs Susan Millar advised the appointment should be made as soon as possible. At least where the need can be seen from the outset the appointment could be made at the time of the granting of the Order. But the need may not always be clear at that stage and indeed may only emerge unexpectedly later. The power to appoint should accordingly be available at all times. It is accordingly recommended that the appointment of a safeguarder should be considered at the time of granting an Order or if the appointment is not then made at any later stage at which the case comes before the Sheriff.

17.16 The appointment of curators ad litem in the present case was a useful and proper course to have been taken. But there was some doubt and uncertainty about their precise powers and functions. The technical restriction of their function to the litigation left several matters of general welfare out of their strict responsibility. The active concern which in fact they took in the welfare of their wards was over and above the strict call of duty. While it is only in the rare case that resort might require to be had to the appointment of a curator ad litem it is not thought that any steps should be taken to excluding the possibility of such an appointment. The choice of persons to be appointed is one which requires to be considered in the circumstances of any case in which the question arises. In the present case the appointment of members of the Faculty of Advocates was appropriate and useful through their ability very quickly to obtain advice on the legal complexities which arose. If for any reason in a future case it was thought desirable to appoint a curator rather than a safeguarder, consideration should be given to the express provision of such particular powers for such a curator as might be appropriate to the circumstances of the particular case. It is recommended that where curators are appointed it would be desirable to have their specific powers stated in the interlocutor of their appointment.

17.17 The Scottish Child Law Centre have also suggested the introduction of a new role of 'Child Advocate' who will perform a more continuous and substantive role than a temporary legal representative. This role would cover monitoring, mediation, fact-finding and advising, looking always to the interests of the child and taking account of the child's wishes with due regard to the child's maturity in forming and expressing them. Child Advocates should be accountable to an independent body. The Child Advocate would provide the independent pursuit of the child's interests required by Article 3 of the UN Convention, the legal ability to explain the child's rights and take instructions required by Article 37(d), and the representation of the child to enable the child's views to be articulated at the hearing envisaged by Article 12. To a significant extent this role may be met by the post of the safeguarder already described. The need for the further development of a 'Child's Advocate' may best be assessed after the enhanced role of the safeguarder has been tried and tested. It is recommended that a pilot scheme should be run to try out an enhanced role of a safeguarder in cases of child protection before further consideration is given to the possible development of a Child's Advocate.

II. Facilities

(A) SEPARATION OF SIBLINGS **17.18** As a general rule siblings should not be given placements separate from each other, although circumstances may occur where a large number of siblings may not be able to be placed together. The course of arranging separate placements should not be adopted without sufficient knowledge of the degree of development of the children and the relationship between them in terms of their behaviour and feeling. Their respective ages and the differential in age between them are important considerations but will not be determinative. While on the one hand a greater age may imply a high level of self-sufficiency the ties of adolescence may be particularly strong.

17.19 It is not to be supposed that separation of the children of a family is necessarily in every case harmful or undesirable. There may be circumstances

where a period of separation may enable a child to have a breathing space. While it is undesirable to particularise an exhaustive list of the reasons which may be of the compelling character sufficient to justify separation one example would be where one of them is exposed to a real risk of injury or abuse from the conduct of the other and separation is justified for protection. If a relationship of intimidation or fear is evident between siblings then separation may be in the children's best interests. They should not be kept apart simply on the view that their evidence might be open to criticism or attack by their being placed together unless there are very sound and clear reasons for anticipating a real likelihood that their evidence would be distorted, concocted or suppressed by their being together. It is recommended that when siblings who have been living together in family are taken into care following allegations of abuse they should not be placed separately unless there is some compelling reason in their own interest for so doing.

17.20 Where separation of siblings is initially justified it is not to be assumed that it will continue to be so. The matter should be kept under regular review and as soon as practicable the children should be permitted to meet each other or be placed together. It is recommended that where siblings are placed separately that matter should be kept under regular review.

17.21 In any case where joint placements are not available or in the rare case where separation can be justified there should also be a presumption that at least supervised access between siblings should be permitted. It is recommended that where joint placements cannot be found siblings should be permitted reasonable access to each other subject to a degree of supervision appropriate to the circumstances.

(B) **PERSONAL POSSESSIONS** **17.22** There may well occur cases where a child taken to a place of safety has no opportunity to take any personal possessions with him or her. For example if an emergency situation arises and the child is away from home, perhaps at school, then it will not be practicable for the child to take much along with him or her at the time of the removal. It is plainly undesirable that a child should be bereft of possessions to which the child has a particular attachment. Every step should be taken to enable the child to recover from home such possessions as he or she particularly desires within the limits of practicability. While allowance may require to be made for exceptional circumstances in which a deprivation of personal possessions can be readily justified as for example where the articles are a potential source of danger any limitation on the retention of them should be based solely on grounds of practicability. The matter is not one which admits of an absolute rule but the presumption in favour of a child keeping particular personal possessions is a strong one. It is recommended that apart from cases where exceptionally a valid reason might exist for depriving a child of a particular possession children should be allowed to retain such possessions as they reasonably wish or require.

(C) **ACCESS** **17.23** In general access should be permitted to a child removed to a place of safety both to parents, relations and friends. A prohibition on access to the child such as was imposed in the present case may simply intensify the breach in the continuity of relationships which have been part of the child's life. There should thus be a presumption that reasonable access to the child will be permitted at least for the person or persons who at the time of the removal had the actual care or custody of the child. This is in line with Recommendation 14 of the Review of Child Care Law in Scotland, with the Code of Practice on Access to Children in Care and Under Supervision, and with Articles 9.3 and 37(c) of the UN Convention on the Rights of the Child. This access should be seen as being principally for the benefit of and in the interests of the child and only secondarily for the benefit of the person having access. The form of the access must also be determined, whether by person or by telephone or by correspondence and whether the access should be free or under supervision. It is recommended that as a matter of generality it should be presumed that reasonable access to a child in a place of safety will be permitted to parents, relatives and friends.

17.24 Access should only be refused if there are compelling reasons for the restriction in the interests of the child. Furthermore the child's own wishes must

be given serious consideration and respect. Where the child is the victim of abuse by a parent it is not invariably the case that supervised access by such a parent will be contrary to the child's interests. The danger of harm may often be minimised by sensitive supervision. That access should be refused on the grounds that it might prejudice the disclosure of evidence is a course not normally to be followed and again the presence of sensitive supervision will serve to minimise such a fear as may be reasonably held in that regard. That view fits with the opinion expressed by Dr Kusumakar and Ms Roberts in their written submission that child assessment can be conducted within the context of supervised access. It is recommended that restrictions on access should only be imposed if there are compelling reasons justifying such restrictions in the interests of the child.

17.25 Whatever initial provision is made regarding access it is a matter which must be kept under regular review. Circumstances may well change after the child has been removed and there may be a greater understanding of the risks and dangers to which the child may or may not be exposed. Access initially withheld may quickly be recognised as being safe in the interests of the child. On the other hand circumstances could exist where initial access led to undue distress and the view was reasonably taken that some restraint on it should be imposed, again in the interests of the child's welfare. It is recommended that the matter of access be kept under constant review while a child is in a place of safety.

17.26 There exists no clear machinery for determining or reviewing access to a child in a place of safety. It is desirable that a procedure be introduced for this purpose. Various possibilities were canvassed during the evidence. One was the appointment of an independent assessor. But while that might have the advantage of objectivity it is undesirable to introduce another element into the existing structure and it is doubtful if such an introduction would achieve a more expeditious handling of the problem. Another possibility is that disputes on access might be referred either to someone in the Social Work Department not personally concerned with the case or to members of the Council of the local authority. This latter course has been suggested by way of a complaints procedure in the Review of Child Care Law in Scotland (Recommendation 28-30). But the former course would be impracticable in a small authority such as Orkney and to place the burden on local councillors would involve them as judges in matters in which it is undesirable that they as Councillors should be involved. Councillors will however become involved in respect of complaints made under Section 5B of the 1968 Act (as introduced by Section 52 of the National Health Service and Community Care Act 1990).

17.27 The preferred solution so far as a child in a place of safety is concerned is that control of access be entrusted to the Sheriff. The Sheriff should be informed of the whole circumstances of the case and be able to assess the necessity for any restraint on access. It is a matter which would be raised before him for consideration in every case at the first hearing after the granting of a Child Protection Order. It was suggested that the atmosphere of the Children's Hearing was more suitable than that of the Sheriff Court for determining matters of access. The Children's Panel is of course in use to deal with the problem of access in the context of supervision requirements. But at the stage of a Child Protection Order before the matter comes to a hearing for disposal it is appropriate that the Sheriff who is controlling the detention in the place of safety should deal with access as a matter linked with and ancillary to the detention. It is the Sheriff who resolves matters of access in cases of the assumption of parental rights (Section 17B of the 1968 Act) and where the matter could be one of heated dispute between parties with conflicting rights it is desirable that the resolution be achieved by a Court rather than through the more informal proceedings of a Children's Hearing. It is recommended that the Sheriff should be empowered to regulate access to a child in a place of safety and should be obliged to consider that matter when the case first comes before him after the granting of the Order.

17.28 A difficulty may arise where the social work department hold information which requires to be kept confidential as bearing on some future prosecution but which is relevant to the matter of access. It is suggested that in such circumstances

a confidential report can properly be submitted to the Sheriff for his sole consideration. Subject to his deciding otherwise it would not be available to anyone else present at the hearing and not be open for discussion. This same course is suggested in Chapter 18.27 in relation to the supply of information to the Sheriff in connection with applications for the continuation of authority to detain a child in a place of safety.

17.29 In considering the matter of access thought should also be given to the possibility of communication between the parent or guardian and the child by letter, tapes, telephone calls or other such means. This may be of particular importance where as in the present case it was necessary to find placements a considerable distance away from the children's homes. Here the risk of any such communication upsetting the child may have to be set against the child's need for contact with his family and for the reassurance that he has not been rejected. The same principles as apply to access should apply to such communications with some form of censorship being exercisable when the element of supervision is held to be necessary. Thus in general, correspondence should only be withheld if there are compelling reasons for doing so. Dr Kusumakar and Ms Roberts summarised the situation pragmatically in suggesting that children should be allowed to receive letters, photographs and presents so long as they do not have an overt abusive significance and they do not cause overt distress. But just as arrangements for access require to be managed efficiently so as to minimise stress and tension so also the practical handling of correspondence and communications must be attended to with expedition and efficiency.

17.30 Special questions may arise with regard to access permitted to the child by professionals such as solicitors or psychologists. The timing and number of visits, especially by such professionals, is a matter to which the safeguarder could attend on behalf of the child. If there was dispute about the propriety of such a visit then the matter could be resolved by application to the Sheriff.

- (D) EDUCATION **17.31** Articles 28 and 29 of the UN Convention on The Rights of The Child deal with the child's right to education. In some cases a child removed from home may be able to continue attending at the same school as before and suffer no interruption in the course of education. But in every case and particularly where attendance at the same school is not practicable the social work and education departments of the local authority of the child's home must secure that there is the least possible and ideally no interference with the child's education. This is a matter to be considered where practicable in advance of the local authority seeking a Child Protection Order. It is recommended that where local authorities exercising any powers involving the removal of a child from home their Social Work and Education Departments must, at the earliest practicable stage, secure that provision is made for the continued education of the child.

III. Foster Carers

- (A) THE SUPPLY OF FOSTER CARERS **17.32** The Presbytery of Orkney submitted to the Inquiry that consideration should be given to the finding of more places of safety within Orkney to obviate the need for the children to be removed from the islands. The problem is however of wider importance as relating not only to cases of emergency but to all cases where foster parenting is required. Nor is the problem confined to Orkney. There was evidence of an increasing problem in finding foster placements throughout Scotland and as Mr Sinclair indicated there is a need to tackle this problem seriously in the near future. It was observed that there is a high demand for foster placements for children in the ten to twelve age group and a relative dearth of placements for those aged twelve and over. While the matter has a national dimension attention certainly requires to be paid to the stock of foster placements within the islands of Orkney. It is recommended in particular that the Orkney Islands Council should take immediate steps to recruit more foster carers within the islands.

17.33 As Mr Chant indicated, action in respect of foster placements is required on three fronts. In the first place there is the necessity to have a sufficiency of staff

to find and recruit potential foster carers. Unless that effort can be maintained then the stock of available foster carers will diminish. In the second place it is necessary that the fostering allowances and fees should be kept up at a level which is realistic. Unless such levels remain realistic people cannot reasonably be expected to undertake the responsibilities required of them. In this general connection it should be noted that Strathclyde Regional Council raised a question whether the Benefit Regulations might be adjusted to secure financial support where friends and relatives are caring for a child. In the third place there is a need to provide ongoing support and training especially to those foster carers who accept children in cases of suspected sexual abuse. As was pointed out in the submission by Strathclyde Regional Council 'foster parents and care staff can play a crucial role in communication with abused children'. A child may more readily tell of his or her distress in a domestic setting than in the confines of an interview. Training is already given in some areas and particular attention should be given to helping foster carers understand the nature of child sexual abuse and deal with behaviour and distress which the child may show. While much work has to be done by local effort the problem being one of resources properly lies substantially with SWSG. The Scottish Child Law Centre suggested that Scotland should develop refuges where children could take refuge without risk of prosecution under Section 71 of the Social Work (Scotland) Act 1968 as is provided in England in Section 51 of the Children Act 1989. This was not a matter explored at the Inquiry but it is mentioned for further consideration. The Association of Reporters also mentioned that the definition of 'places of safety' in Section 94(1) of the Act of 1968 is out of touch with practice and should be modified. It is recommended that SWSG take urgent steps to assist local social work departments in a positive initiative to increase their stock of foster carers.

(B) INFORMATION FOR FOSTER
CARERS

17.34 The extent of information which a foster carer may require varies from individual to individual. Opinions differ on the extent of information about allegations of abuse which it is thought a foster carer ought or needs to have. One view is that a disclosure by a child to a foster carer is all the more compelling if the foster carer had no prior knowledge of the substance of the allegation. It is obviously desirable for the foster carer to have a knowledge of the child's family relationships. Ignorance can prove embarrassing. More importantly all information bearing on the child's health, likes and dislikes, habits and behaviour or anything else concerning the proper care of the child should be obtained and passed to the foster carer. It is recommended that foster carers should be given a written report at the time when the child is placed or as soon as practicable thereafter with as much personal information as can be gathered.

17.35 It is also essential for the foster carer to be kept fully informed of the Children's Hearings procedure and any developments relating to the child. In most cases this will necessarily occur with the child's attendance at hearings but in the cases where their presence is dispensed with the foster carer should be kept fully aware of the decisions made. They should also be given a full understanding of any particular course of action being taken with the child whether in treatment or counselling or investigation so that they can support the child and participate in the course to such extent as may be considered appropriate. This can be achieved through regular child care reviews. As the RSSPCC put it in their written submission 'carers should, where possible, be an integral part of the planning of the case, informed about the overall plan and their role in it'. It is recommended as a matter of guidance that foster carers be kept informed of any developments regarding any child in their care and of any course of action being taken with the child. Mention is made of their role in relation to the interviewing of children later in this Chapter.

17.36 Where children are placed with foster carers belonging to another local authority it is important that those foster carers are clear about the different roles and responsibilities which staff from their own and the other authority will hold during the placement. Authorities should confirm with each other, in writing, what these roles and relationships are to be, and in particular how the foster carer will be supported and financed, how decisions about the child's care will be made

and by whom and how information will be communicated from the carer to both authorities. It is recommended that a copy of this agreement should also be available to the foster carer so that lines of support and communication are clearly understood.

IV. Parents

17.37 The need to recognise the rights of parents has already been mentioned in Chapter 15.40—41. One suggestion was advanced at the Inquiry that an intermediary, styled a parent's advocate, should be able to be appointed, to represent the parent particularly in contacts with the social work department. The idea was advanced particularly on behalf of Mr Lee and was supported by Mrs Susan Miller. The main purpose of the appointment would be to facilitate communication where the situation is such that a calm and confident relationship between parents and the agencies cannot be achieved. The post would be modelled on that of the safeguarder and would require effective training and resourcing. The idea did not receive general support and it is considered that it is not a course which should be recommended. There are occasions, as was recognised in the Cleveland Report (paragraph 13.20), where social workers require to work through or with parental hostility and it is thought that the intervention of an intermediary might only serve to accentuate a degree of remoteness in the relationship.

V. Medical Examinations

17.38 One question which arose in regard to medical examinations was the desirability of having an examination of the general health of the child before the child comes into the control of the carer. The matter is to some extent covered by the Boarding-out and Fostering of Children (Scotland) Regulations 1985 and especially regulations 11 and 12. It is certainly desirable that a record of the child's condition should be available prior to the child coming into the keeping of the foster carer in order to protect the foster carer from later allegations of lack of care. Foster carers also require to have information on any medical conditions from which the child may be suffering and which could be discovered on examination. On the other hand after the traumatic experience of being removed to a place of safety it may be overstressful for a child to be exposed to a detailed examination by a doctor whom the child has not met and in an unfamiliar environment. There may thus be some conflict between the interests of the child and the protection of the foster carer. The course of holding the medical examination before the child enters the placement is to be preferred but the matter must be open to practical considerations in the circumstances of every case. It is recommended that subject to the practicalities of the case medical examinations of children removed under Child Protection Orders should be carried out before they enter their placements.

17.39 One element in the idea of the joint approach was the desire to avoid repeated examinations of the child. More is however required than the co-operation of agencies in the holding of an examination. Calls may well be made at stages later than the initial examination for further independent examinations on behalf of parents or their representatives or advisers. To avoid so far as may be practicable a repetition of examinations it would be prudent as Strathclyde Regional Council have suggested to require arrangements to be made in all areas to secure an examination by two doctors of whom at least one is a consultant paediatrician skilled in carrying out examinations in cases of child sexual abuse to a standard which will meet the requirements of parents and their representatives and advisers. To that end steps should be taken by each local authority to prepare a list of appropriate persons to carry out such examinations. It is recommended that so far as they have not already done so local authorities prepare lists of appropriate persons to carry out medical examinations of children suspected of sexual abuse.

17.40 Another matter is whether the general medical examination should be carried out at the same time as a special examination for evidence of sexual abuse. No instruction was given on this matter in Highland Region but the doctors there simply carried out a general examination at the same time. In Strathclyde on the other hand although Mr Greene believed that Dr Shepherd had carried out a general examination and Dr Kirkwood indeed made reference to the general health of each child in her reports, Dr Shepherd said that he had not made a general examination. He said that he was opposed to that course as the examination was traumatic for the child and should not be prolonged and accordingly he refused to complete any record of the general health of the children. While there may be circumstances where the course is not desirable it is in general preferable if both examinations are carried out at the one time so as to minimise the number of times that the child has to be subjected to any kind of medical examination. The course adopted in Highland although it was adopted without express instruction was clearly a sensible one. It is advised by the Department of Health in England in 'Diagnosis of Child Sexual Abuse: Guidance for Doctors' (HMSO 1988: para 12.9) that a general physical examination should be included in a medical examination in cases of sexual abuse. It is recommended that in cases where a child is being examined for evidence of sexual abuse a general examination of the child's health should be carried out at the same time.

17.41 One problem which was raised in the present case was the obtaining of consent by or on behalf of the children to be medically examined. It had been intended that the consent of the parents should be obtained to this course but it was not clearly obtained in all cases. The doctors satisfied themselves that the Social Work Department had consented and that the child was himself or herself consenting. Much of the problem here has been subsequently removed by the coming into effect of Section 2 of The Age of Legal Capacity (Scotland) Act 1991, facilitating a valid consent to be given by a child. Some questions however remain. Mr Sloan considered that authority from a Court should be available to obtain medical evidence without the consent of the child or the parent. That matter is linked with the problem of which authority has control of the child when detained in a place of safety. As has already been suggested provision should be made to obtain the power to hold a medical examination through the course of an Interim Protection Order. It would then be reasonable also to allow for power to take a child for a medical examination to be obtained by application to the Sheriff in cases where the child is being or is about to be detained in a place of safety.

17.42 An argument was presented that since the law deems a child to be incapable of consent for the purpose of certain sexual offences it is illogical to be requiring a consent for a medical examination of a child who is believed to have been the victim of such an offence. But while the law in the interest of children recognises their incapacity to consent to the former in the context of prosecution of alleged offenders the right of the child to refuse to undergo a medical examination should still be recognised. It can be argued that the child may not know what is truly in his or her own interests and the child's wishes should be able to be overcome by a Court Order. But in practice a medical examination of a child who refuses to be examined would be not only difficult but in practice probably unacceptable to a medical practitioner and in principle there is merit in recognising the child's right even although others may consider the child's decision misguided.

17.43 In general there should be no sound reason why the results of a medical examination of a child should not be intimated to the parent. There should be no reason for withholding the information where the parents are not suspected of any involvement in abuse. But in most cases even if there is a suspicion that the parents might be involved there should be no compelling reason for secrecy. Where reasons do exist they should be clearly recorded and should be open to challenge before the Sheriff. It is recommended that subject to exceptional cases where in the child's interests the matter should be kept secret the parents should be told the results of a medical examination of their child, and where they are not disclosed the matter should be open to challenge before the Sheriff.

17.44 One matter of detail arose from the present case regarding medical examinations, namely the desirability of having the medicals conducted by one female

and one male doctor so as to allow for the preference which a child might express to be examined by the one rather than the other. It is recommended that there should be an availability of choice for the child.

17.45 A further potential problem arose in the present case because the parents refused to sign any form giving their consent to medical treatment while the children were away from home. Fortunately no necessity arose for treatment where the consent of the parents would have been needed. The difficulty may often be overcome in practice by the parents giving consent when occasion for it occurs. Furthermore the recent provision in Section 2(4) of The Age of Legal Capacity (Scotland) Act 1991 should go a considerable way to remove the problem. There is no need for further recommendation on this matter.

VI. The Interviewing of Children

(A) INTRODUCTION **17.46** In making recommendations on interviewing in cases where allegations of abuse have been made no attempt is made to produce a comprehensive discussion of the very complex task of interviewing children. In particular no comment of any depth can usefully be made on the areas not explored at the Inquiry such as the use of techniques to assist a child to speak about matters which he or she finds it hard to express. The evidence related to interviews conducted primarily for the purpose of investigation and it is in that context that the following recommendations are made. In the areas which are touched upon in these recommendations there is a considerable agreement with many but not all of the points made about interviews within the Cleveland Report.

17.47 Interviewing children who are the subject of allegations of sexual abuse is a complex task requiring considerable skill, sensitivity and concentration. Both the preparation for and the conduct of interviews take time and make high emotional demands on the interviewers. As Dr Trowell pointed out these considerations apply with even greater force where the allegations involve multiple child sexual abuse. There is a need for recognition by the agencies involved in child protection, by training colleges, central government and the public that interviewing children in this field of work is an exceptionally difficult task and that those interviewers who undertake it need adequate and detailed training, sufficient time in their work schedule, and support and supervision while engaged in it. It is recommended that greater recognition by agencies, training colleges, central government departments, and by the public is given to the complexity of the task of interviewing children where allegations of sexual abuse arise. This should also include recognition of the need for staff to have adequate training and supervision and management of their workload to undertake this task.

17.48 It has already been recommended in Chapter 15.39 that at an early stage in the investigation of suggested child sexual abuse the proper course is to hold an inter-disciplinary meeting to establish the main lines of any investigation. At that stage if the investigation is to proceed a case manager should be appointed. That person would collect the whole information about the child from all sources including that from any interviews with the child. As regards interviewing itself firstly, and most importantly, planning is required to identify the purpose of the interviews. At the outset the broad purpose must be defined so that there is a clear understanding of the kind of interview to be undertaken. Without a clear purpose techniques and duration cannot be determined and no useful review can be held. Secondly consideration should be given to the making of an overall assessment of the child to enable the management of the interviews to be prepared and the substance of anything said by the child to be fully evaluated. Thirdly, the techniques to be used should be discussed and determined. Fourthly the duration of the interviews should be decided. Fifthly it should be decided when the process should be reviewed so as to consider whether a change of purpose should be adopted.

17.49 The different techniques which are required for investigative interviews as distinct from those utilised in therapeutic interviews need to be considered and choices made about techniques which are appropriate to the specific purpose. The

term 'assessment and support' served to blur the focus of the interviews undertaken with the nine children. The term 'disclosure' is to be avoided. The variety of types of interview which may be required throughout work with a child where sexual abuse has been alleged were clearly outlined by Dr Trowell. These were clinical assessment, investigative, supportive and therapeutic. Such a four-fold classification appears to be sound and useful. Each of these types of interview has its own distinct primary purpose. It is recommended that consideration should be given to the classification and terminology of the types of interviews to ensure that labelling of interview purposes is clear and unequivocal and to prevent blurring of focus within an interview or a series of interviews.

17.50 Before any interviewing starts careful planning is also necessary on a number of detailed matters relating to the conduct and management of the interviews. These include the identity and capability of the interviewers, the number of interviews to be held, their timing and their regularity, when and where the course of interviews is to be reviewed, how information and views should be exchanged between the interviewers and those having the daily care of the children, a precise understanding of any particular topics to be explored, the techniques to be used in the interviewing process, the method by which any differences of view between joint interviewers should be resolved, the nature of any mechanical recording to be made, the arrangements for written reports, the communication of information to the case manager and the arrangements for supervision and support of the interviewers. Not only should these matters be clearly decided but a record should be made of the decisions reached for further reference.

17.51 While an authority to arrange investigative interviews with a child may be a subject, as has been suggested in Chapter 16.31, for application to a Sheriff, the somewhat uncertain matter of the necessity for consent by or on behalf of the child still remains. It is important to seek consents to investigative interviews from the parents of the child and from the child where of a sufficient maturity to be able to give an informed consent. Consent to interviews being recorded by audio or videotape should also be sought from parents and children. The draft Home Office code of practice on video recording for criminal proceedings produced at the Inquiry underlines the need for the child to consent freely to video recording of interviews if such interviews may be used in evidence. It also contains useful advice on what should be explained to the child. At the least an informed consent from the child should be obtained along the same approach as has been adopted in Section 2 of the Age of Legal Capacity (Scotland) Act 1991. By an informed consent is meant a consent given in full understanding by the child of the nature and purpose of the interview and the use of any mechanical recording apparatus. Where a child refuses to participate in investigative interviews they should not be begun or continued. But that need not of course terminate all contact between the interviewers and the child. There may well be other contact with the child which can appropriately be continued despite lack of consent for investigative interviews. The refusal of a parent or child to consent to investigative interviews is not to be seen as a complete barrier to any contact with the child for purposes other than investigative interviews. It is recommended that the consents of parents and of children where of a maturity to give consent are sought prior to investigative interviewing being undertaken and that at least an informed consent be obtained where possible from the child.

(B) INTERVIEWERS **17.52** The importance of training for any person undertaking the difficult work of interviewing children especially in cases of alleged sexual abuse is mentioned in Chapter 19.12. In the present context it should simply be stressed that a full training in the art of interviewing together with the techniques of recording is of the very greatest importance in any case of child sexual abuse and in complex cases of that kind.

17.53 In the present case interviewers who had received accounts of allegations of abuse of children from one group of children were involved in subsequent interviews with the children named in the earlier interviews. This is an undesirable course of action. The validity of the evidence elicited from the second group of children is rendered more open to attack. It is extremely hard for the interviewers

to be seen as totally impartial about the allegations or about the outcome of subsequent interviews. Such a situation may not be common but where it does arise it is recommended that wherever possible interviewers who have dealt extensively with children making allegations about other children should not be involved in interviews of those other children.

17.54 In relation to the possession of background information by interviewers some witnesses stressed the problems of contamination of evidence. There is undoubtedly a risk that the validity of information given in interviews may be open to attack if interviewers are seen to hold very extensive background information about the allegations which have been made. But background knowledge about the allegations has to be distinguished from background knowledge about the child. This latter knowledge does not touch the substance of the allegations but is an essential for evaluating anything the child might say which touches on them. It includes an understanding of the child's emotional, physical and mental development. The assessment of the child's development is a necessary preliminary for a thorough investigative interview and interviewers should press for any information they lack on this matter before embarking on such work. Where there are joint interviewers each should possess the same amount of background information. It is recommended that each interviewer should wherever possible have consistent and relevant background information about the child and in particular about his or her emotional, physical and mental development and should require such information to be provided by the case manager.

17.55 Within some interview settings the interviewer may have no contact with the child's wider family. If interview material is to be set in context it is important that an assessment of the child in relation to his family is also being carried out. Dr Trowell noted this as a necessary part of an overall assessment but also recognised some of the inherent problems in completing an assessment of the child in relation to his family when the child has already been removed from home. The Cleveland Report (Chapter 13.13 and 13.19) has also stressed the importance of an overall family assessment. It is recommended that planning meetings should consider how that wider assessment is to be achieved and how that information can be used by the interviewers appropriately in their contact with the child so as to gain a better understanding of the child's world.

17.56 It is, as was pointed out in the Cleveland Report (Para 12 34.3), necessary to approach each interview with an open mind. The objective interviewer should thus not feel any sense of disappointment or lack of success if at the end of the interview no evidence has been forthcoming. To quote again from the Cleveland Report (Para 12 34.8) 'it must be accepted that at the end of an interview the child may have given no information to support the suspicion of sexual abuse and the position will remain unclear'. Open-mindedness of interviewers need not be prejudiced by their having some information about the allegations. The danger is rather that if interviewers have a strong emotional investment in the allegations they are exploring they may be less objective in their interviewing approach. It is recommended that the importance of interviewers keeping an open mind on the truth or otherwise of any allegations is underlined to all interviewers by their managers and that the issue is stressed and explained in agency guidelines.

17.57 Interviews are only a part of the total investigation and the information from them requires to be collated with information from other sources such as schools and carers to achieve a whole picture from which plans can be made for the future of the child. It is important that information from interviews be communicated expeditiously and directly to the case manager for that purpose. It is recommended that clear communication channels are set up from interviewers to case managers so that information is accurately and effectively transmitted. Wherever possible direct communication from the interviewer is recommended to reduce the likelihood of incomplete or inaccurate information being passed to the case manager.

17.58 It is clear that carers can make a valuable contribution to the interviewing of children. In the present case the interviewers unfortunately felt constrained from full discussion with carers because of a fear of contamination. Children may well confide in their carers and it is important that any information given to the

carers be shared with the interviewers. The carers should be kept informed of the course of the interview work and should be encouraged to assist towards it. The decision about how communications between carers and interviewers should be managed is one to be reached at an early planning meeting. It is recommended that where investigative interviews are being undertaken the contribution of carers must be valued, collected and recorded either by a case manager or interviewer.

17.59 Where agencies are to undertake joint interviewing they must have a clear strategy for their work together. They must also have a strategy for assessing the work as it progresses. Harmonious working relationships must not prevent interviewers feeling able to raise questions and to offer constructive criticism as both are required if the desired high standard of practice is to be achieved. An appreciation of each other's strengths and weaknesses is crucial to successful joint interviewing and provides an important check on performance throughout interviews. However effectively a strategy is planned differences of view may arise between interviewers relating to direction or technique and provision should be made for these to be resolved. It is recommended that where agencies are to undertake joint interviews there is an agreed strategy for the course of interviews, for the resolution of disputes and for the assessment of the ongoing work both by managers and interviewers.

17.60 In developing their relationship with the children it is important that interviewers should not only know about matters relating to the care of the children but should be involved in decisions relating to their care. In the present case there was some lack of clarity about the role and responsibility of interviewers in relation to decisions about such matters as correspondence to and from the children and access to parents and other family members while in care. These are issues of importance to children who are in care and may well be raised by them within the interview setting. It is essential that the views of interviewers on these topics should be part of the whole decision-making process both at the planning and review stage. It is recommended that the extent of the involvement of interviewers in a range of childcare decisions while a child is in care and involved in interviews should be defined and that as a minimum the interviewers' views should be included in any review of decisions relating to matters of the care and welfare of the children which fall to be made during the course of the interviews.

17.61 In recognition of the stressful and demanding nature of investigative interviews with children a strict control on the workload of interviewers must be maintained. The work includes not only the conduct of the interview itself but a great deal of work which precedes and follows an interview such as supervision, case planning, contact with carers and the preparation of reports and records. To enable workers to fulfil the demands made on them by such interviews it is recommended that no more than two investigative interviews per interviewer per day should be undertaken and that managers should regularly monitor workloads.

(C) FACILITIES AND
RECORDING

17.62 The shortage of adequate facilities in Scotland for mechanical recording of interviews was recognised in the evidence but it should not be the case that limited facilities automatically lead to poor interview standards. The skills and expertise of the interviewers can surmount some of the practical problems. Moreover the art of interviewing should not be seen as something to be practised exclusively in suites or rooms specially designed, dedicated or furnished for that purpose. But where recording is required accommodation fitted with the equipment is at least desirable and it is of course important that the setting for interviews be such as to give the child a sense of security and comfort. As was noted in the Cleveland Report (Para 12 35.7) 'the setting must be suitable and sympathetic'. The very important matters that are being considered in interviews and their possible legal consequences need to be recognised. Resources will be required to develop appropriate facilities. It is recommended that attention is given to developing more facilities suitable for interviewing in relation to child abuse and the resource implication in this should be recognised.

17.63 A variety of agencies may well have facilities for or suitable for interviewing children within the area of a local authority. There can be difficulty in ascertaining the nature and extent of facilities which may be available within a

region through a variety of agencies. Health clinics and hospital premises may be well equipped and the shared use of such premises should be encouraged. It is desirable that all available premises be located. It is recommended that each Area Child Protection Committee should undertake an audit of premises and facilities that may be available locally. The results of any such audit should be available to staff seeking to interview children who need to know where appropriate facilities exist.

17.64 The importance of interview records in court processes has been stressed in several cases and inquiries relating to alleged child abuse. The point deserves to be repeated. Interviewers should be clear about the consequences of inconsistent recording for the validity of the whole interview process should it be scrutinised in a court of law. If a consistently high standard of recording is not maintained there is a risk of the substance of an interview becoming open to challenge and devaluation with possible detrimental consequences for the child should the records be required in a complex court process. It is recommended that every effort is made to improve recording techniques and maintain consistent recordings throughout a series of interviews particularly where investigative work is being undertaken.

17.65 The importance of training in the recording of interviews is stressed in Chapter 19 and it has already been recommended that at the planning stage of any child sexual abuse investigation clear decisions need to be made about the nature of the desired recording. The scope of recording will be tempered by resources and skills but where the investigation relates to complex or multiple child sexual abuse strenuous efforts need to be made to ensure video recording or at a minimum complete audio recording of interviews. Any recordings made should be regularly monitored by the case manager and supervisor of interviewers to ensure that the recording is of an acceptable standard for the purpose of the interviews. It is recommended that in complex or multiple sexual abuse investigations priority should be given to video recording all interviews or at a minimum audio recording should be made. It is also recommended that standards and practices of recording are regularly monitored to ensure consistency of recording and to facilitate future planning of work with the child.

17.66 Whether or not a mechanical recording can be made full notes should be made as soon as possible after the interview. As was advised in the Cleveland Report (Para 12 34.9) 'there must be careful recording of the interview and what the child says whether or not there is a video recording'. These notes would record questions and answers and the expression and behaviour of the child. The impact both of the child and of the interview on the interviewer should also be recorded. Compiling adequate records requires time to be set aside after an interview finishes. It is not satisfactory if delays occur and particularly not if other investigative interviews intervene as the opportunity for confusion can easily arise about the exact communication with each individual child if time elapses. It is recommended that whether or not there is a mechanical record of the interview a full written record must be made as soon as possible after the interview and that the workloads of interviewers are managed in such a way that space is available to undertake the required level and detail of recording as soon as possible after interviews.

17.67 Drawings undertaken by children during interviews contribute to an overall record of contact with the child. It is important that the way in which drawings were created is also recorded and that drawings themselves are preserved. Children will on occasions wish to take drawings away from interviews. It is important that children feel they own their drawings but in the course of investigative interviews their retention is also important. Copies should be made of any drawing before it is removed or other means secured to ensure that the drawing can be retrieved if required in the investigative process. It is recommended that drawings are labelled at the time of creation to ensure clarity later upon the date and time of the drawings and the respective contributions of interviewer and child to them and steps be taken to secure that all drawings or photocopies of them are available for further use or reference.

17.68 When mechanical recording is made either on audiotape or videotape it should be clearly understood to whom the tape belongs and who has the care and

custody of it. Furthermore all agencies should have clear procedures for enabling anyone entitled to hear or see the recording to do so without risking the tape being used for unauthorised purposes. Strict controls may be required in relation to the copying of any tapes.

(D) SUPERVISION AND SUPPORT

17.69 Supervision must be regular and systematic and it should not be left for interviewers themselves to decide when to seek help. As was noted in the Cleveland Report (Recommendation 4(j)) 'staff engaged in social work practice in the field of child abuse and child sexual abuse need structured arrangements for their professional supervision and personal support. The work is stressful and it is important that their personal needs are not overlooked'. Supervision should cover the range of tasks interviewers must fulfil if they are to be effective in the interview setting. Particularly in complex sexual abuse allegations the interviewers should firstly receive individual supervision which will concentrate on the way in which the individual is operating and the impact of the work on him or her. Secondly they should also receive management supervision dealing with both the day-to-day decisions to be made about interview direction and longer term directions and objectives for the child. Thirdly there should be detailed interview supervision which should take account of the recordings of the interviews and explore the patterns of interaction of the interviewer and the child and the style of the interviewer. While demanding of skill and time from both manager and interviewer unless good supervision is offered to interviewers the work with the child may drift and become less helpful to that child. Guidelines on interviewing should stress the importance of regular supervision and support. It is recommended that where interviews involve complex or multiple sexual abuse allegations there must be provided not only individual personal supervision, but management supervision and detailed interview supervision.

17.70 Where joint interviewing is being undertaken there is a need for supervision to monitor and to discuss the process with both interviewers together. The interaction between the interviewers and their joint approach to the child requires to be kept under review and modified if necessary. It is recommended that where interviews are being undertaken jointly supervision is planned on an occasional but regular joint basis involving both interviewers and their supervisors.

17.71 The nature of child sexual abuse investigations creates stress and pressure for interviewers and they need to be supported in the work they do. As noted in the passage quoted from Cleveland in paragraph 69 of this Chapter personal support is vital for workers involved in this complex area of work. The formal and systematic supervision which must be offered to interviewers should be their main source of support but where some other resource can be offered either formally or informally this should not be discouraged. It must not however become a substitute for adequate systematic supervision. It is recommended that the manager of an interviewer should have a clear understanding of all the people from whom the interviewer is receiving support and ensure that they are not allowed to substitute for regular and systematic supervision.

(E) THE PLANNING AND TIMING OF INTERVIEWS

17.72 It is not always necessary to have two interviewers attending investigative interviews. An arrangement for one to observe while one interviews or for one interviewer to undertake the work but a video or audio recording to be made to allow another view of it, can be acceptable. What is important is planning in advance how many interviewers are required and why that particular number is chosen. There will seldom be reasons for more than two interviewers to be involved directly in the interview with the child. It is recommended that at the planning meeting prior to interviews starting, information is considered about the child and the purpose of the interviews to enable a decision to be made as to how many interviewers are required. Any decision thus made should be reviewed regularly.

17.73 Dr Trowell indicated that a maximum of two interviews per child per week was desirable but it would be inappropriate to impose limits which could become inflexible and counter productive in specific cases. It is recommended that as a general rule a maximum of two investigative interviews per week is

appropriate for a child but the provision of a careful appraisal of the effect of interviews on the child and a check to see that undue pressure is not present could lead to a specific decision in particular in the case of older children that interviews on alternate days for a limited period would not be excessive. There are clear dangers in the over-interviewing of children such as the risk of coaching the child or creating an excessive anxiety in the child. Decisions about frequency of interviews should never be left solely to the interviewers but should involve discussion with managers to ensure that the frequency is not causing distress or harm to the child. The key to appropriate decisions about the frequency of interviews is the regular reviewing of such decisions by those involved and by their managers.

17.74 Reference was frequently made in the evidence to the interviewer going at the child's pace. As was noted in the Cleveland Report (paragraph 12.34.6) 'the interview should go at the pace of the child and not of the adult'. It is important that the child does not feel pressurised. There are however dangers in concentrating solely on the child's pace. Attention needs to be given to the timescale over which a series of investigative interviews is to be conducted. Such a timescale should be decided at planning meetings and be regularly reviewed. Otherwise the process may be left to drift on for an inordinate period. It is recommended that planning meetings decide on the appropriate timescale over which investigative interviews are carried out, having due attention to the pace of interview which is suitable and helpful to the child.

17.75 It was stated in the Cleveland Report (paragraph 12.34.5) that 'there should be where possible only one and not more than two interviews for the purpose of evaluation and the interview should not be too long'. And it was recommended (p. 245) that children should not be subjected to repeated interviews. This statement has come to be regarded as a guideline or even a rule and has been founded on in several judgements from English Courts and was frequently quoted in evidence in the Inquiry. This limit of two investigative interviews however is unduly restrictive and in Dr Trowell's view it could be contrary to a child's needs. One interview so conducted as to pressurise the child could be more harmful than several conducted impeccably. Dr Trowell noted the importance of setting an initial limit. In her view four was a suitable number but with the opportunity of further investigative interviews being undertaken if agreed by a planning meeting. The critical point is that whatever the precise number should be it should be determined in advance with the proviso that additional interviews should only be held after a full review, with the agreement of the agencies concerned and with a full appreciation of the risks involved so far as regards the evidential value of the material. It is recommended that no absolute limit is made in relation to a maximum number of investigative interviews that may be carried out with a child. It is recommended that a clear decision about the numbers to be undertaken must be made at the first planning meetings. It is further recommended that the initial series of interviews of an investigative nature should be short and an initial number not exceeding four may be seen as an appropriate guide.

17.76 Additional interviews of an investigative nature should only be carried out after a further planning meeting has been convened and where there is agreement of all the agencies involved that an additional series of investigative interviews are necessary in the interests of the child. The planning meeting must also acknowledge the possible detrimental effects on evidential material emanating from interviews if they are extended. It is recommended that where agreement is reached on a series of investigative interviews then there requires to be strict adherence to that specific purpose and number of interviews and that any departure from the subject matter or number should only follow a full review of the situation and the agreement of all agencies.

(F) **TECHNIQUE** **17.77** A full survey of the techniques of interviewers is not attempted here. As matter of generality it should be stressed that interviewers must plan in advance all aspects of the conduct of an investigative interview. There are five particular areas on which comment is offered.

1. Denials and retraction. Children may well deny or retract earlier statements in a later interview. Interviewers must have planned exactly how they will deal with this and be prepared to make an appropriate response.
2. Interviewers' knowledge of allegations. At the start of a series of investigative interviews it is essential that there is detailed planning about what interviewers will communicate to the child about their personal knowledge of the allegations which have been made both relating to substance and to the source of their information.
3. Introduction of interviewers' agenda. On occasions interviewers will see the need to introduce an agenda to the child. This must be done on a structured basis and proper planning undertaken to ensure that any outcome from the child in response to the introduction of the agenda is dealt with appropriately.
4. Leading questions. The use of leading questions was debated at length in evidence. There are a range of different views as to the appropriateness of using them in investigative interviews with children. It is essential that interviewers should fully understand what constitutes a leading question, since both the content of the question and the form of words may have to be considered. It is essential that interviewers recognise that the use of leading questions may reduce the value placed on some answers and be open to challenge in the legal process. In that context attention requires to be paid to the guidelines given in Cleveland Report (paragraph 12.34.5) that 'the style of the interview should be open-ended questions to support or encourage the child in free recall'. The matter is not one however which admits of any absolute rule. The permissible use of leading questions at different stages in the interview process needs to be fully understood. The structure and planning of interviews should always address the potential value of leading questions as well as their potential problems and no blanket or ill-thought out embargo should be placed on the use of leading questions if they are introduced in a planned way at an appropriately far advanced stage of an interview.
5. The introduction of personal material. While in conversation with children it is appropriate to be sharing limited personal information, investigative interviews are not conversations with a child. When involved in investigative interviews the introduction of personal material is ill-advised as it is impossible to predict how the child may respond and such introduction may divert the child from giving their own view in the matter.

It is recommended that before embarking on an investigative interview interviewers should consider the matters of denial and retraction, the interviewer's knowledge of information relating to allegations, the interviewer's own agenda, the use of leading questions and the introduction of personal material to ensure clarity of approach in these matters.

- (G) GUIDELINES **17.78** It is desirable that there should be a uniformity of approach to investigative interviewing both as regard different agencies and different regions. Accordingly the preparation of guidelines is a matter to be undertaken centrally and they would form a useful element in the successor to 'Effective Intervention'. As has already been recommended in Chapter 15.66 national guidance is required on the principles to be observed in a number of areas including the conduct of investigative interviews. It is recommended that SWSG should undertake the preparation of guidelines for the investigative interviewing of children in consultation with representatives of all the agencies and professions who may be involved in that work. In that work the foregoing part of this section should be of assistance. Regard should also be paid to the recent Home Office Code of Practice on Video Recorded Interviews of which some elements at least may be of use in Scotland.
- 17.79** In addition to such central guidance and within its overall framework local guidelines will be required to deal with matters of detail and local procedures. This element should form one part of the local guidance which has been recommended in Chapter 15.58. But as was stressed in Chapter 15.57 guidelines whether local or national are not and should not be treated as inflexible rules. Nor can they be a substitute for good training and practice. It has to be recognised that on occasion

circumstances may occur where a strict adherence to guidelines may not be in the best interest of the child. In exceptional cases where departure from suggested guidelines is considered necessary then this should not be seen as a failure but rather as part of a carefully considered response capable of being explained in the context of the interview should such a departure be challenged at a later date. It is recommended that departure from suggested guidelines should not be automatically seen as a breach of good practice. It should be recognised that such a departure may be justifiable if it is made after careful consideration of the best interests of the child.

XVIII THE CHILDREN'S PANEL AND THE REPORTER

I. The Children's Hearing

18.1 The Inquiry was not concerned to explore the basic structure of the system of the Reporter and the Children's Hearings. At the most the Inquiry was only concerned with matters of child protection and did not touch at all on the whole area of child offenders. Some matters however were raised at the Inquiry as being of concern and requiring some change in relation to the work of Children's Hearings in the field of child protection. In approaching this matter however one basic principle of the existing system should be recognised and preserved and that is that disputes on the factual merits of the case should be reserved for the Sheriff and the hearing should not be concerned with such matters. Their essential function should be related to the disposal of the child once the factual situation which has occasioned the child's appearance before them has been resolved. In the majority of cases coming before hearings where the child has committed an offence, there is no dispute about that matter and the grounds for referral are accepted by child and parents. But in cases concerned with child protection the situation is likely to be much more complex, the grounds for referral being likely to be denied where abuse or neglect of a child by a parent is alleged.

18.2 No-one has suggested that the whole system of Children's Hearings should be abolished but the point has been made that circumstances have changed quite significantly since the idea of them was conceived and the system established. At the start it was anticipated that the majority of their work would be with offenders and one essential purpose of their establishment was to take young people out of the formal process of a criminal court and enable a more positive and informal approach through a lay tribunal. The original role of the hearing was one of working in a participative way with children and parents to help the parties involved and to work with the parents towards an agreed solution. However more recently there has been a significant increase in cases where the child is a victim rather than an offender and where the concern is rather one of care and protection for the abused than treatment of the offender. Furthermore at least in the more complex of such cases, especially in matters of sexual abuse, when the problem comes before the hearing there has already been a substantial degree of expert professional thought dedicated to it and multi-agency discussion and conference about it. When the matter is taken before a hearing the parents may well feel that the hearing is simply being invited to affirm a decision which has already been taken although that may be mitigated if they have already participated in previous discussions. The wealth of authority behind the social work department's position can be difficult to challenge and even the hearing may feel that they are doing little more than formally approving what in substance others have resolved. The position can be seen as unsatisfactory from the view not only of the parents but of the child and the hearing itself.

18.3 The Glasgow Bar Association criticised the Children's Hearing system in respect of what they alleged was its lack of independence, its varying standards and procedures and its inability to strike a balance between the welfare approach and the need to protect civil liberties. The Association was also critical of the membership of the Panels. However they remained of the view that hearings should continue to deal with juvenile delinquency but considered that referrals involving care and protection, such as cases of sexual abuse, should be dealt with by the Sheriff. Others who made submissions to the Inquiry, such as the Regional and Islands Reporters' Group, stressed that a system which has worked reliably for twenty years and has been the subject of study by the Review Group on Child

Care Law in Scotland should not be open to radical review in an inquiry into a fairly unique set of circumstances.

18.4 Problems of definition immediately arise on this approach. Account would have to be taken of cases where a child is both an offender and a victim and of cases where, as could occur in a Child Protection Order it is uncertain whether a child is an offender as well as a victim. But while some workable definition could doubtless be devised the course proposed does not seem wholly to meet the perceived problem. Many cases of child protection are well within the capacity of the Children's Hearings to determine and it would be undesirable to add them to an already heavy workload in the Sheriff Court. At the heart of the system is a recognition that there can be a similarity in the situation underlying the child offender and that underlying the abused child and a solution in each case should be sought by working with the parents.

18.5 The problem created by the complexity of sexual abuse cases and the detailed professional consideration of disposal which has taken place outside any hearing is not met by transferring such cases from the hearing to the Sheriff. It is by no means clear that a Sheriff would feel particularly qualified to challenge at his own hand the combined opinion of the professionals who had been consulted and the feeling that the decision is little more than an endorsement of a decision reached by others could well be experienced by a Sheriff as well as a Children's Hearing. The essential element is the expertise of the tribunal be it a hearing or a Sheriff.

18.6 The existence of an independent check on the position in a case brought on referral by the Reporter is of very significant value. What is required is a development to secure that its value is reinforced and made more real. In some cases panel members may well have a particular expertise or experience which enables them to assess the complexities of such cases with advantage but that is not always the case. One matter for consideration relates to the possible desirability of a sufficient number of panel members acquiring a greater degree of expertise in problems of child abuse. Another course might be for the panel to have the guidance of a skilled assessor in appropriate cases. Such a person might, it was suggested, interview the child for the hearing. It was also suggested that in appropriate cases steps should be taken to secure that one of the members of the hearing should be a professional lawyer or a psychologist but that matter is open to differences of view. The child's own representative may help to present the child's view and the appointment of a safeguarder to protect the interests of the child as has already been matter for recommendation may also assist in securing that the child's own view is properly presented. ADSW in their Report have set out their belief (in para. 6.3.7) 'that the rules and procedures which frame the work of Children's Hearings now require to be reviewed and revised.' That belief is supported but detailed recommendations cannot appropriately be made here other than in respect of children in places of safety. It is recommended that consideration be given to the review and revisal of the work of the Children's Hearings in the area of child protection.

18.7 The area of the work of the Children's Hearings which appears to be most open to concern is that of their dealing with matters of Place of Safety Orders under Section 37 of the 1968 Act as distinct from referrals. As is suggested elsewhere that area of work should become the responsibility of the Sheriff. It would be inappropriate on the basis of the material in the present Inquiry to suggest radical changes in the dealing by the hearings with referrals if indeed any such changes are necessary. One suggested change in the matter of referrals should be recorded namely that where a case has been remitted to the Sheriff for proof to establish the grounds for referral the Sheriff should be able if the grounds were established either to remit the case to the hearing or to retain it under his own control if it was of a particularly complex character or there were other special reasons justifying that course. A further possibility might be that two members of the Children's Panel could sit with the Sheriff as assessors in such cases.

II. Procedure

(A) THE FIRST LAWFUL DAY HEARING **18.8** Under the statutory scheme the responsibility for initiating active steps to secure compulsory measures of care is entrusted to the Reporter. Under Section 37(1) of the Social Work (Scotland) Act 1968 any person having reasonable cause to believe that a child may be in need of compulsory measures of care may give to the Reporter such information about the child as he may have been able to discover. Under Section 37(1A) a more elaborate provision is made for the case where a local authority receives information suggesting that a child may be in need of compulsory measures of care. In such a case there is an obligation on the authority to do two things; the first is to cause enquiries into the case unless they are satisfied that such enquiries are unnecessary; the second is that if it appears to them that the child may be in need of compulsory measures of care they are required to give to the Reporter such information about the child as they may have been able to discover. Thus whether the matter originates with a person or a local authority the matter is passed in either case to the Reporter for further consideration.

18.9 The imposition of compulsory measures of care is matter for a Children's Hearing under Section 44 of the Act. They achieve this by making a supervision requirement in accordance with that section. The case however has first to be brought before them on the initiative of the Reporter. It is to the Reporter that the matter passes in terms of Section 37(1) or Section 37(1A). These sections link with Section 38. Under that section where a Reporter receives information from any source of a case which may require a Children's Hearing to be arranged he is required after making such initial investigation as he thinks necessary to proceed with the case in accordance with the following section, Section 39. That section provides for three courses of action for the Reporter. Firstly he may decide that no further action shall be taken. Secondly if he considers it appropriate he must refer the case to the local authority so that they may make arrangements for the advice, guidance and assistance of the child and his family. In the third place however where it appears to the Reporter that the child is in need of compulsory measures of care 'he shall arrange a Children's Hearing to whom the case shall stand referred for consideration and determination'. The express provision in Section 39(3) that the case is to stand referred for consideration and determination by a Children's Hearing brings in the regime prescribed by Section 40 which includes provision for the detention of a child in a place of safety for a period not exceeding 21 days where the hearing are unable to dispose of his case and either believe that the child may not comply with certain requirements for attendance or are satisfied that his detention is necessary in his own interest. Before disposing of the case the hearing requires the provision by the local authority of a report on the child and his social background all in terms of Section 39(4). Furthermore Section 42 requires the chairman initially to explain the grounds of referral and to ascertain whether these are accepted by the child and his parent or not, with the provision that if the grounds are disputed the Reporter requires next to apply to the Sheriff for a finding whether the grounds are established.

18.10 The procedure for the cases where children are taken to a place of safety is found initially in Section 37(2). The child may be detained by virtue of that section 'until arrangements can be made for him to be brought before a Children's Hearing under the following provisions of this Part of this Act'. The subsection also provides that persons taking the child shall 'forthwith inform the Reporter of the case'. Section 37(3) then provides for the detention to terminate where the Reporter considers that the child does not require compulsory measures of care, or after the day on which a Children's Hearing first sit to consider his case or after a period of seven days. Section 37(4) provides that where a child has been detained in a place of safety under Section 37(2) or under certain sections of the Criminal Procedure (Scotland) Act 1975 and the Reporter considers that the child may be in need of compulsory measures of care 'he shall, wherever practicable, arrange a Children's Hearing to sit not later than in the course of the first lawful day after the commencement of the child's detention to consider the case under this Part of this Act ...'. The subsection proceeds to empower the Hearing to issue a warrant

requiring the child to be detained in a place of safety for a period not exceeding twenty-one days if the hearing are unable to dispose of the case and are satisfied that the child's further detention is necessary in his own interest or have reason to believe that he will run away during the investigation of the case.

18.11 The question arises whether the 'first lawful day hearing' under Section 37(4) is a referral by the Reporter. The problem here is considered by Sheriff Kearney in Chapter 7 of his book entitled 'Children's Hearings and the Sheriff Court' in the context of the 2 sets of provision for detention in places of safety in Section 37 and Section 40 of the Act of 1968. The point was discussed in the report 'Review of Child Care Law in Scotland' at paragraphs 14.4 to 14.7. It is there approached as a question whether the hearing requires to have before it a statement of the grounds for referral, and it is noted that practice varies. Some Reporters treat the hearing as an occasion for considering the circumstances of the Place of Safety Order and deciding whether a warrant should be granted for continued detention. Others ensure that grounds for referral are laid before the hearing, which assumes that the occasion arises out of a referral, that is to say that the provisions under Section 37(4) for arranging of a hearing on the first lawful day after detention in a place of safety and the provisions under Section 39(3) for arranging a hearing following on the receipt of information under Section 38 overlap to the effect of providing for one and the same hearing. As was pointed out in the written submission for the Northern Constabulary Rule 15 of the Children's Hearings (Scotland) Rules 1986 applies to hearings under Section 39(3) but not to hearings under Section 37(4) so that the provision for notification of grounds for referral in Rule 16 apply to the former but not the latter case.

18.12 There is an attractive argument that this first hearing is intended to consider the grounds of the Place of Safety Order and that the hearing may then and there decide what to do with the child or to continue the case for disposal at a later date. It may be noticed in particular that the hearing under Section 37(4) arises where the Reporter believes that the child may be in need of compulsory measures of care while a hearing on a referral arises where the Reporter believes that in terms of Section 39(3) that the child is in need of compulsory measures of care. Furthermore the grounds for determining the need for the compulsory measures of care as set out in Section 32(2) of the Act are not quite the same as those for the taking out of a Place of Safety Order under Section 37(2). On the other hand the consideration required by the hearing under Section 37(4) is a consideration of the case 'under this Part of this Act' and that lends support to the view that a referral is intended. Rule 23 and Rule 7 along with Form 1 of the Children's Hearings Rules appear to proceed upon such an interpretation.

18.13 The debate about the character of the first hearing has an implication in a further direction. Those who see that hearing as the first step of a referral readily come to regard the taking of a Place of Safety Order as the preliminary to a referral and so come to assess the evidence required for such an Order as the same as the evidence for establishing the grounds for a referral. But while there can in certain circumstances be practical merit in such a view and some similarities in the bases for the two processes can be readily seen the essential purposes of them are quite distinct. The Place of Safety Order is appropriate where there is an immediate need to remove a child from an environment where the child is about to be harmed or injured. A referral is appropriate where the whole future care of the child requires to be considered either because he or she has offended or because he or she is in need of care and protection and may not involve the child even being removed from home. It is inappropriate to confuse the two processes or as matter of general principle to take as a standard for the application for a Place of Safety Order evidential requirements appropriate for the establishing of the grounds for a referral.

18.14 While it might be thought to be an advantage of the system of drafting the grounds for referral in time for the first lawful day hearing that it does give early intimation to the children and the parents of the grounds for referral it puts pressure on the Reporter to collect the information and produce what may be his final version of the grounds within seven days. While this should be practicable it may be only just possible to achieve it. As a result the interested parties may

have no notice of the grounds until the hearing starts or very shortly before the sitting. Rule 16 of The Children's Hearing Rules requires seven days notice to be given of the new grounds for referral but allows them to be notified as soon as practicable in the case of a place of safety order. It is desirable that the grounds be available a reasonable time before the interested parties are asked whether or not they admit them.

18.15 Another difficulty in taking the hearing under Section 37(4) as dealing with a referral is that the Reporter is then robbed of the option of following the provisions of Section 39(2). Mr Sloan sought to overcome this by saying that the hearing could discharge the referral and allow the voluntary arrangements envisaged by Section 39(2) to be made. But those are not strictly the voluntary arrangements open to the Reporter under Section 39(2) which come before and avoid the necessity for any hearing. Problems may also arise in the application of Rules 7 and 8 of the Children's Hearings (Scotland) Rules 1986 which deal with the period for prior notification of a hearing if it is not clear whether the 'first lawful day hearing' is a hearing under Section 37(4) or a hearing to consider and determine the case of a child in pursuance of a referral.

18.16 Furthermore the need to extend the time for the hearing beyond the first lawful day in order to accommodate the preparation of grounds for referral requires the Reporter to take a strained construction of the word 'practicable'. This matter has already been touched upon in Chapter 13.67. The phrase 'as soon as practicable' in section 37(4) has become construed as including in the relevant considerations for practicability the time required to draw up the grounds for referral. The general result of this is that the first lawful day hearing is held later than would otherwise be the case. As Mr Jim Wallace MP pointed out in his written submission there is a range of days in practice which serve as the first lawful day so that it becomes difficult to forecast when the hearing may be held. Exceptionally in Strathclyde it can be managed on the first day but it is usual to delay about four days before the hearing is held. The intention of the statute however appears to have been that a consideration particularly of the propriety of the detention of the child should be made by a hearing as soon as a hearing can be assembled after the removal. The statute initially prescribes the occasion as the first lawful day and while allowance is made for impracticabilities there is no clear reason for requiring the practicability to depend simply upon the time required for drafting grounds for referral.

18.17 Some of the problems raised in the course of the Inquiry about the role of the Reporter arise out of a failure to keep a distinction between Place of Safety Orders and referrals. The confusion is assisted by the statute which leaves obscure the nature and purpose of the hearing required under Section 37(4). While the latter process may well follow on a place of safety order the two are distinct procedures and in considering the role of the Reporter this important distinction should be observed. Not only does it enable the issue of the possible necessity for a Place of Safety Order to be identified as a separate issue pending investigation in the matter of compulsory measures of care but also it focuses attention on the need to identify whether a risk of significant harm exists irrespective of any need for compulsory measures of care.

18.18 Plainly clarification is required here. Machinery must be available to enable the detention of the child to be re-examined within a day or two of it being enforced. In achieving that clarification notice should be taken of the desirability of enabling any interested party to raise an immediate challenge to the grounds on which the child was removed without prejudice to any further and fuller exploration which might occur in the course of a referral in relation to the grounds for that procedure. Consideration of the Place of Safety Order should not be allowed to be delayed for seven days as occurred in the present case on the basis that the Section 37(4) hearing was the start of a referral and that the statute could be so construed as to defer the hearing until grounds for referral were available. The majority view expressed in the Review of Child Care Law is to the effect that the Section 37(4) procedure is a hearing on a referral. If that view is accepted then it is all the more necessary to secure a separate mechanism to redress obvious mistakes or errors in the taking of a child to a place of safety or to challenge that

action because the procedure of a referral will in many cases probably be too slow to enable any immediate examination on the grounds for detention. The cases where such a challenge may arise may not be numerous but for the occasions where it is appropriate a remedy ought to be available.

18.19 It would be possible to provide for all matters relating to a child detained in a place of safety to be dealt with expressly by the Children's Hearing. But the scheme of the Act secures that the hearing is concerned with matters of the care of the child while the factual justification for their assuming that jurisdiction is entrusted to the determination of the Sheriff. The proper course would, accordingly, be to provide expressly for an immediate summary recourse to the Sheriff against any detention of a child in a place of safety. The scope of the Sheriff's inquiry in the Summary hearing would be whether the retention of the child in a place of safety was justified. He would not be reviewing the act of removal on grounds such as *ultra vires* because that is the prerogative of the Court of Session in the exercise of its supervisory jurisdiction. He would simply be asked to determine whether on the information currently available the child reasonably requires to be in a place of safety. It is accordingly recommended that a procedure be introduced by amendment to the Act of 1968 enabling immediate recourse to be made to the Sheriff for a decision on the question whether the child reasonably requires to be in a place of safety.

18.20 Provision should be made for a parent or guardian or safeguarder of the child to apply to the Sheriff for recall of the Order at any time within seven days after the removal of the child. This would enable the parent to take immediate action to have the order reconsidered at the earliest opportunity after the child is removed. Such a provision is necessary if the rights of children and their parents are to be fully recognised. It would be preferable but not essential that the matter be taken to the Sheriff who granted the Order, if it was granted by a Sheriff. Some parents may of course be less alert than others and if there be a risk that a child might be unnecessarily detained owing to the parents not being sufficiently active in pursuing their own rights and those of the child two long stops should be available. One is the power of the Reporter, which should remain, to direct the termination of the detention (Section 37(3)(a)). Another would be the possibility of an appointment of a safeguarder for the child by the Sheriff. So far as the rest of Section 37(3) is concerned the detention would be terminated if not by the Reporter, by the Sheriff on an application being made to him during the seven day period or in any event at the termination of the hearing before the Sheriff on the seventh day unless he has ordered its continuation.

18.21 Furthermore it is recommended that the whole processing of Child Protection Orders be a matter for the Sheriff rather than the Children's Hearing, so that any continuation of detention and any incidental matters would be dealt with by the Sheriff. Such a transference of the processing of child protection orders from the Children's Hearing to the Sheriff requires some changes in the procedure of referral. It is undesirable to have a situation where both the Sheriff and the hearing were able to give directions about the continued detention of the child in the performance of their respective functions and on the basis that until the factual basis is beyond dispute the hearing should not be involved with decision making in case the appropriate course appears to be that the case should remain with the Sheriff Court until the grounds have been admitted or finally established. This could be achieved by requiring the grounds for referral to the hearing being served on the child and the parents as soon as practicable in any event within the seven days of the removal of the child. The case would be called before the Sheriff seven days after the removal of the child and the grounds for referral would be put before the Sheriff. If the grounds are then admitted the Sheriff would pass the case to the Children's Hearing for all further procedures. If further time was required for the parents or the child to consider their position regarding the referral the Sheriff could continue the case for that purpose. If the grounds were not admitted the case would remain with the Sheriff for proof. In each of these eventualities the Sheriff could continue the detention of the child in a place of safety for an appropriate period. The proof should proceed at the earliest practicable date thereafter. If the grounds were not established that would terminate the matter and the Sheriff

could dispose of the referral as well as any continuing detention. If the grounds were established the Sheriff would pass the case to the hearing for further procedure with such continuation of detention as may be required. Provision would require to be made for an appeal against the Sheriff's decision. The case would not pass to the hearing until the period for lodging an appeal had expired. Where an appeal is taken the case should remain with the Sheriff Court process until the appeal is disposed of. Any interim orders required pending the appeal would be dealt with by the Court currently vested with the case. There should be the widest powers available for resolution of any dispute in the care of the child including a reference to the Children's Hearing by the Court for advice. Once the case has come into the hands of the Children's Hearing any further continuation of detention would be determined by them, any dispute on the merits having by then been resolved.

18.22 While the style and nature of the sessions before the Children's Hearing in the present case were plainly exceptional and imposed a quite unusual burden on the chairperson in keeping control and order over what was happening there would be an advantage in having the greater authority of the Sheriff available where disputes over retention of a child in a place of safety occur. Furthermore the need to keep a child in detention necessarily involves consideration of the merits of the grounds for the detention and it accords with the basic principle that that matter should be the preserve of the Sheriff and that the hearing should not be concerned with it. Concern was rightly expressed by Mrs Susan Millar about the introduction of an adversarial element into proceedings before the Children's Hearing which was deliberately designed to be informal and not combative. An adversarial approach and the formal style of the Court is inappropriate to it. By securing that disputes in the matter of Place of Safety Orders and warrants for their continuation are taken by the Sheriff this difficulty should be substantially overcome. Furthermore there could be advantages in appropriate cases for the Sheriff to deal with matters of continuation of a detention and incidental questions in Chambers and secure some measure of informality and privacy in that way. Consideration should also be given to securing that legal aid is available in the proceedings before the Sheriff. It may also be noted that if both the continuing of detention under a Child Protection Order and if the inquiry into grounds for referral are reserved to the sheriff the problem which was raised in the present case of the possible continuation of the warrant granted by the hearing after Sheriff Kelbie gave his decision may be obviated.

18.23 It is desirable that a referral where a child is detained in a place of safety should be processed without any undue delay and it is proper that a time limit should be set on the referral if one is to be made. That indeed is a reflection of the construction of Section 37 which was adopted by Mr Sloan following the tradition in Strathclyde. It should accordingly be expressly provided that if grounds for referral have not been served within seven days of the removal of a child under a Child Protection Order the Order shall fall and the child shall not continue to be detained. This termination would occur notwithstanding any continuation already granted by the Sheriff.

18.24 Reform prompted by the somewhat special circumstances in Orkney must recognise that in the generality of cases no difficulty or problem has arisen. Nevertheless the need for reform of a general nature was recognised in many of the submissions made to the Inquiry. The change proposed seems to meet the shortcomings of the present procedure and yet not interfere materially with the expeditious processing of the ordinary run of cases. The research and preparation of the reports necessary for the eventual disposal of the case by the hearing when a referral proceeds should not be materially if at all delayed by routing the stages of child protection orders through the Sheriff until the case is freed from the practical disputes with which the hearing should not in any event be concerned.

(B) SECTION 40 **18.25** If amendment is made to Section 37 along the lines already suggested it would be prudent to consider the provision in Section 40 of the 1968 Act whereby a Children's Hearing can instruct the detention of a child in a place of safety in certain specified circumstances. Under Section 40(4) they may order apprehension

and detention of a child where there is a failure or a feared failure of attendance by the child at the earliest stage. Section 40(7) empowers the hearing to issue a Warrant for detention where the hearing is unable to dispose of the case and either (a) believe the child may not attend at any hearing of the case or any proceedings arising from it or fail to comply with a requirement under Section 43(4) to attend at a clinic, hospital or establishment for purposes of investigation or (b) are satisfied that the detention is in the child's own interest. As has already been noted the problem whether the 2 sets of provisions for Place of Safety Orders in Section 37 and Section 40 are meant to be cumulative or alternative has been discussed by Sheriff Kearney. The better view is that they should not be understood as cumulative. The Child Care Law Review recommended that (Recommendation 58) the two series of Place of Safety Warrants should be rationalised into one.

18.26 The main purpose of the provisions in Section 40 are to enable the hearing to enquire into and arrive at an appropriate disposal for the child, although the wider provision in Section 40(7)(b) echoing that in Section 37(4) could cover the circumstances envisaged in Section 37(2). In practice it may be that the powers in Section 40 will be exercisable in cases of the child offender rather than the child victim. Under the regime here proposed where the continuation of detention may initially lie with the Sheriff the problem of the relationship between the two provisions from continued detention is not removed. It is then desirable that an express provision be made to secure that an absolute limit on detention in a place of safety whether under Section 37 or Section 40 or conceivably if orders were made under both Sections may not exceed a stated period, perhaps eighty-four days from the date when the earliest warrant for continuation has been granted. While it may not be realistic to put a specific short time limit upon the holding of a proof after the grounds for referral the Sheriff should instruct the proof at the earliest practical date so as to secure that the whole process can be accommodated within the overall timescale.

(C) CONFIDENTIALITY **18.27** Once it is accepted that consideration of the merits of the case are relevant to the decision to continue a detention in a place of safety, a question can occur whether there are matters which in the interest of the child or the possible pursuit of criminal proceedings should not be disclosed to the parents. In such a case provision should be made for information to be given confidentially to the Sheriff as has been suggested in Chapter 17.28 in relation to access. This should be an exceptional course but there could be exceptional cases where such secrecy is justifiable in the interests of protecting criminal investigation or protecting the child. Apart from such exceptions the reason for the detention should be explained by and any argument for its continuation presented by the person who enforced the Order.

18.28 Consideration also has to be given to such statutory provisions on the restriction on access to information as the Access to Personal Files Act 1987 and the Personal Files (Social Work) (Scotland) Regulations 1989 (S.I. 1989 No 251) and Rules 6, 17 and 19 of the Children's Hearings (Scotland) Rules 1971 (S.I. 1971 No 492) considered in *Kennedy v A* 1986 SLT 358. But while certain matters may well require to be treated as confidential Orkney Islands Council submitted under reference to *In re A (Minors) (Child Abuse: Guidelines)* 1991 1 W.L.R. 1027 that the Sheriff should have a discretion to release certain documents. The matter was not one developed in evidence or debate but it is recommended that consideration be given to it.

(D) TIMETABLE **18.29** One problem which was canvassed in the course of the evidence was that of accommodating what may be a considerable time before a sexually abused child tells of the abuse within the statutory time limits for the establishment of the grounds for referral. It was suggested that this might be overcome by extending the time for the Proof under Section 42. Application to the Sheriff might be made to seek an extension of time where it was believed that the child was about to make a disclosure.

18.30 One constituent in the problem is the assumption that the evidence of the child can only be obtained by the often protracted process of giving the child time

to talk at his or her own pace and when he or she is ready to do so. One possible solution to the problem is built in to the procedure of the Children's Hearing. Under Section 42(1) the Chairperson is under a duty to explain to the child the grounds for the referral of the case in order to ascertain whether the child does or does not accept them. Given the concern expressed elsewhere about the methodology of interviewing which contributes to the problem there seems no sound reason for extending the time limits except in quite exceptional cases. It was suggested that power should be given to the Sheriff to allow an extension in such exceptional cases instead of requiring reference to the *nobile officium* as was done in *Humphries 1982 SC78* and *Ferguson v P. 1989 SLT 681*. Mr Sloan submitted that it should not be made easier to extend the eighty-four days and recourse to the *nobile officium* in order to achieve it would make people pause. There is a risk that express power would encourage delay and that different standards of what would be regarded as exceptional could be created. The importance of strict adherence to the time limit is considerable and it is recommended that no special provision for extension of the time for a Proof should be made.

- (E) ATTENDANCE OF CHILD **18.31** Another matter of what is strictly Panel procedure was touched upon, namely the practice of holding a 'business meeting' to consider the necessity for the attendance of the child at a hearing. The practical sense of this procedure was noted by the Inner House in *Sloan v B 1991 SLT 534*. While it seems good administrative sense for the Reporter to hold a preliminary meeting with the Panel members to discuss whether the child should attend a hearing the practice is open to evident suspicion. The holding of a meeting by one party to the case with members of the Panel may well appear unfair and even although everything may in fact be conducted with absolute propriety the appearance of unfairness remains. The mere act of holding the meeting may be an indication that the Reporter's wish is to exclude the children and there is bound to be discussion of the matter in which he may participate without opposition. Furthermore the practice of holding such a meeting without the knowledge or the views of the parents or the children may run counter to Article 12(2) of the UN Convention on The Rights of the Child. There can be administrative problems in securing the attendance of the children or even the parents at such a meeting. One solution would be to obtain the child's view in advance and to have that laid before the meeting. In any event at the least the members of the Panel should before deciding to dispense with the child's attendance have before them an understanding of the views of the child on his or her attendance. In the written submission for the Acting Reporter it is said that there is no evidence that the absence of a procedure for obtaining the child's views 'creates difficulty as a matter of general practice'. But the question is not one of practical difficulty but of fairness in procedure. It is also submitted that the proposal raises as many difficulties as it seeks to resolve but any practical problem of obtaining the child's views cannot be as serious as the very real risk of the 'business meeting' being treated as a sitting of the Children's Hearing. It is recommended that the child and the parent or guardian of the child should be informed of the business meeting and their position presented orally or in writing at the meeting.
- 18.32** The Statute gives an express right to a parent under Section 41(1) to attend at all stages of a hearing. But while it recognises the attendance of the child in the obligation of the chairperson to explain the grounds for referral to the child in Section 42(1) it also provides in Section 40(2) that a case may be considered in the absence of the child where the hearing are satisfied in a case concerned with an offence mentioned in Schedule 1 to the Criminal Procedure (Scotland) Act 1975 that the attendance of a child is not necessary for the just hearing of that case or in any case where they are satisfied that it would be detrimental to the interest of the child to be present. It was observed in *Sloan v B 1991 SLT 530, 549* that this is not to be seen as a denial of the child's right but as a means of protection for the child. But the remedy may be more extreme than is consistent with the child's right and in particular with Article 12(2) of the UN Convention on The Rights of the Child which requires that the child shall be provided the opportunity to be heard in any proceedings affecting him or her. It is suggested that the right of parents to be present throughout the children's hearings should give way to the interests of the child when the child's interests so require. The matter has

already been the subject of recommendation 82 in the Review of Child Care Law in Scotland. A balance can then be struck between the right both of the parents and the child to be in attendance except where in the interests of the child the one or the other should be excluded.

18.33 A question was raised during the Inquiry regarding the representation of the child and of the parents at Children's Hearings. While the parents in the present case were articulate and able to present their views there could be many cases where the parents were not so qualified and the idea of a parents' advocate might have a place. This would be a more restricted role than that of the parents advocate proposed particularly by Mr Lee and Mrs Susan Millar as a general intermediary between parents and a social work department (see 17.34). The problem here is one of balancing informality with the adequate presentation of the case for the parent or the child. One suggestion has been the appointment of a young person's advocate. Alternatively it was suggested that the chairperson should be required to interview the child in private. It may also be thought that if the child has a safeguarder and the opportunity for representation when the circumstances make that appropriate no further official representative for the child may be necessary. The matter has been raised by ADSW both in respect of the representation of parents and the representation of children and both aspects deserve study. It is recommended that in considering the whole question of the representation of children and of their parents before Children's Hearings, sight should not be lost of the necessity to avoid the introduction of any formal or adversarial character into the proceedings.

(F) OTHER MATTERS **18.34** A number of other matters were touched upon at the Inquiry as deserving attention but were too far removed from the main subject matter to justify exploration in depth. They are noted here with a recommendation that further consideration be given to them:-

(a) One matter was that of the giving of evidence in Court by children. One particular suggestion advanced was that the provisions of Section 56 of The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (allowing evidence by television link in criminal proceedings) might be extended to Proofs under Section 42 of the 1968 Act. Concern was also expressed by the Association of Reporters regarding the test for ascertaining whether a very young child was competent to give evidence and they sought clarification in the manner of applying the test set out in *Rees v Lowe* 1992 SLT 507 where the child is of a very young age.

(b) The use of closed circuit television at hearing centres as well as the Courts was also suggested.

(c) A further suggestion was made that provision be made for complex proofs under Section 42 to be heard by a Court of Session Judge, under comparison with English procedure. The case might be remitted on the application of any party or by the Sheriff on his own initiative.

(d) It was also suggested that an express power be given to the Reporter to enable him to amend his grounds for referral at the discretion of the Sheriff during the course of the proceedings. This would allow for notice to be given of matters coming to light between the original draft of the grounds and the proof under Section 42. Such amendment would include adding and altering as opposed to a mere deletion as in *S v Rae* (11 December 1991).

(e) The suggestion was put forward by Mr Sloan that an express power should be introduced to enable Section 42 hearings to be heard outwith the Sheriffdom so as to avoid applying to the nobile officium as was done in the present case. But the eventuality is so rare as to make it unnecessary to provide for so exceptional a contingency and it may well be thought that no specific provision is required.

(f) It should also be recorded that the possibility of an express power in the Sheriff to have a preliminary debate on relevancy or competency was raised but it may well be thought that despite a possible saving in time such a course would be undesirable. As was pointed out by Mrs K A Marshall under reference to

the papers prepared by the Scottish Child Law Centre 'if there is evidence that a child requires care and protection, that evidence *must* be heard'.

(g) It was also suggested on behalf of the Acting Reporter that a Sheriff should have power to exclude an alleged abuser from attendance in Court while the child who was allegedly abused is giving evidence.

(h) A suggestion was also made that an express time limit be introduced for the hearing of appeals in the Court of Session but it may be thought that the problem of any delay in that process is not to be solved by statutory time limits.

(G) THE PRESS AT CHILDREN'S
HEARINGS

18.35 The remit did not include enquiry into the actings of the Press and although some representations were submitted on the desirability of the Press being present at Children's Hearings and at Sheriff Court proceedings relating to children and on the substance of media coverage of the events it is inappropriate to make any detailed recommendations on that subject. I should however record that the point has been raised. A number of the witnesses expressed reservation about the Press attending Children's Hearings and went so far as to suggest that the hearing should have power to exclude the Press in particular circumstances. It is suggested in the written submission for the Acting Reporter and in the submission by the Association of Reporters that the hearing and the Sheriff in Section 42 applications should have power to restrict the number of press representatives attending. Concern was expressed at the difficulty of concealing the identification of children, as in the context of the present case, and at the difficulty of achieving balanced reporting. There was plainly a problem in accommodating representatives of the Press in the room used for the hearing in the present case but the Press resolved that problem themselves by agreeing who should be present and how the information should be shared. A suggestion has been made that since it should be possible to predict that a particular hearing would attract unusual media attention steps could be taken to arrange for the proceedings to be relayed to another room for the benefit of the press sufficient for their accommodation. It is considered that restraint on the number of press representatives is not a useful avenue to explore.

18.36 There are of course already statutory provisions on these matters and in particular Section 58 of the Act of 1968. Reference may be made to Article 6.1 of the European Convention which would appear to prohibit a blanket exclusion of the Press. On the other hand Article 16 of the UN Convention recognises a child's right not to have his or her privacy unlawfully invaded and Article 40(2)(b)(viii) preserves the privacy for child offenders. But consideration might be given to the imposition of reporting restrictions on the Press, a solution favoured by Orkney Islands Council. For example explanations may be given during the hearing for the removal of children and of the evidence on which concern for their protection is based: these would assist relationships with the parents but should not in the interests of anyone be published at that stage. Or again an exclusion might be appropriate where someone was using the opportunity of the hearing to address the Press rather than the members of the hearing. Orkney Islands Council pointed out that there are more stringent conditions applied in England under Section 12 of the Administration of Justice Act 1960 (as amended by The Children Act 1989, Section 108(5) and (6), Schedule 13, paragraph 14 and Schedule 14, paragraph 1). It is recommended that consideration be given to the desirability or otherwise of introducing further restraints on press reporting of proceedings before Children's Hearings and in the Sheriff Court in children's cases.

18.37 Thought also should be given to the terms of Section 58 of the 1968 Act in order to make the restriction more precise and easier of application. The question has been raised whether the photograph of the back of a child escapes the statutory prohibition and the extent of the 'particulars calculated to lead to identification' could usefully be made clearer. It is recommended that consideration be given to clarifying the application of Section 58.

18.38 It would not be unreasonable to hold that a child should be entitled to have a Section 42 Proof proceed without parts of the evidence relating to the case being the subject of discussion in the Press beforehand. One suggestion was made that proceedings before Children's Hearings should be brought within the scope of The Contempt of Court Act 1981. Another suggestion was that reports of Children's

Hearings should be limited so as to exclude any reference to the submissions or arguments as well as preserving the anonymity of the child. Some cases of alleged sexual abuse are considered newsworthy and some publicity may be inevitable. What should be encouraged however is an awareness of the role and responsibility of the Police and the social work departments in the field of child sexual abuse and the necessary restraint on the amount of information which should be divulged in fairness to the children and to anyone who might in the future be accused of some criminal acting. What is required is a greater public understanding of the incidence of child sexual abuse and the work of the Agencies engaged in that branch of child protection work. It is recommended that the Press be encouraged to enable a greater understanding by the public of the problems of child sexual abuse and of child protection work.

III. The Reporter

(A) THE ROLE OF THE REPORTER

18.39 A question was raised whether the Reporter should be more actively involved earlier in relation to the removal of children than is presently envisaged in the statutory scheme. He can of course be consulted informally before action is taken and such consultation has not given rise to significant difficulty. Such consultation was recognised in 'Effective Intervention' paragraph 5.3. Such informal involvement is necessarily a matter of circumstances and requires a balance to be struck between the assistance which he can give informally and the performance of his independent statutory role. While the relationship between the Reporter and the social work department should be a close one it is important that Reporters should preserve their independence so as to work from an objective viewpoint, comparable with the relationship between the Procurator Fiscal and the Police. The Reporter is not the local authority's legal adviser.

18.40 The Reporter's power in effect to cancel an Order after its execution is a useful safeguard against error as well as to provide for an immediate change of circumstances. It should not be prejudiced by even an informal understanding that if an order is obtained he would not challenge it. It is considered that in any event a practice of seeking reassurance from the Reporter in advance of the removal of a child cuts across his independent role and his responsibility to make an objective assessment of the case. As Mr Peter Ferguson and Mrs Evelyn Grant the Reporter and Deputy Reporter in Highland Region explained in the submission they feel able to discuss hypothetical or anonymous cases and give their views on them but if any discussion appears to be heading toward the identification of a child, once that point is reached they will become formally involved.

18.41 It was suggested that it was unsatisfactory that a child should be removed by a social worker to a place of safety and then immediately returned home by the Reporter and that this could be avoided if there was prior consultation with the Reporter to secure that he would support the enforcement and continuation of the Order. However the problem of early consultation only becomes live if there is a delay before a Place of Safety Order is executed. If the Orders are confined to cases of emergency as has been suggested in relation to The Child Protection Order the occasion for consultation should diminish. It would not be practicable to consult a Reporter before enforcing it. It is recommended that in any informal discussion with the Reporter his independence of action must be recognised and respected.

18.42 One of the unusual features of the present case was that because of the period elapsing between the decision to remove the children and the removal, which in itself contradicts the existence of an imminent danger requiring immediate action, a situation occurred where on one view the statutory provisions required the Reporter to be setting about a referral to the Children's Hearing coincident with the preparation for the removal under Place of Safety Orders. Such a situation should not arise except perhaps exceptionally if the two forms of Order already suggested are introduced. If as is suggested children are only to be removed in cases of emergency there should be no significant interval of time between the ascertainment of the emergency and the removal of the child. The

removal of a child for interview under an Interim Protection Order would be done in the course of investigation before it was possible to have reasonable cause to believe that the child might be in need of compulsory measures of care let alone that the situation might be one of emergency. The situation which occurred in the present case of the Reporter having the information and being able to present a referral to the Children's Hearing but not doing so until after the children were removed should not be likely to occur again if the orders to remove children are restricted to cases of imminent harm.

18.43 The question arose whether the Reporter should undertake a positive initiative and an investigative role before or without any referral to him. It was replied that this would have a resource implication which some witnesses considered substantial but on the other hand it was argued that if this ought to be part of his role then the resources would require to be found to enable him to carry it out. On the Reporter's side there was little enthusiasm for the idea. It was pointed out that Reporters would undergo a substantial change of role and find themselves in a position where they might be referring cases to themselves. Moreover it was thought that in the context of an emergency situation justifying a Place of Safety Order there was little scope for investigation which they could undertake. The Association of Reporters in their submission to the Inquiry saw no justification for change. Mr A Stewart, the Tayside Regional Reporter, in his own written submission stressed the need for the Reporter to be independent. It is not recommended that Reporters should undertake an investigative function before matters are brought formally to their attention. The Social Work Department may require to serve to an extent as investigators much as the Police may do in relation to the Procurator Fiscal. There seems no sufficient reason for the Reporter to work as an initial investigative agency.

18.44 One of the problems in the present case was in relation to the intimation to the Reporter of the possible need for a Children's Hearing to consider the case. If the statutory scheme is respected whereby the local authority is bound to inform the Reporter when they consider that a child may be in need of compulsory measures of care (Section 37(1A)) and the Reporter is bound to act on that information there is no sound reason for him initiating an enquiry at a stage when the social work department are not aware of the possible need for a hearing. The Association of Reporters raised a question regarding clarification of the threshold at which agencies should make known their anxieties to the Reporter and of the nature and scope of the information required by the Reporter. Certainly there is merit in stressing the point that it is information which is to be passed and not merely expressions of anxiety unsupported by substantial evidence but the Statute does not seem to require further definition in this respect.

18.45 On being informed of the execution of a Child Protection Order the Reporter should immediately consider whether on the basis of the information currently available the child requires to be in a place of safety. This may include further information than was available when the Order was executed. Circumstances may have changed. As it presently stands the Statute entitles the Reporter to have the child returned home if he considers that the child does not require compulsory measures of care. But that is not precisely the point of the removal to a place of safety. The purpose of the removal should be because the child was in imminent risk of harm. It does not necessarily follow that if he does not need compulsory measures of care he can safely be returned home. Correspondingly it does not follow that if the child may need compulsory measures of care it is not in the meantime proper that he should be returned home. If the Reporter is to serve as a check on the continued detention of a child the condition on which he should act should be that he considers that if the child is returned home the child will not suffer any harm. Such a formula recognises the distinction between Child Protection Orders and a referral.

18.46 The role of the Reporter in relation to Child Protection Orders should accordingly be first to satisfy himself as to the propriety of the detention under the Order and secondly he should treat the information on the execution of the Order as the receipt of information under Section 38, make any initial investigation, consider the options under Section 39 and if necessary set in train the stages

for a hearing. He will then require to process the grounds for referral. All of these latter procedures should be distinct from the process of the continued detention of the child under the Child Protection Order.

18.47 Opinions differed on the question of whether the Reporter should take a positive position in the debate about a continuation of an order for detention. In relation to a children's hearing Professor Bisset-Johnston has described the Reporter's role as much less obtrusive than that of a Procurator Fiscal being more akin to that of a Clerk of Court in that it involves a recording and advisory role. However in proceedings before the Sheriff it is thought that the protagonist at this stage should be the Reporter and not the agency which removed the child in the first place. The Reporter will have considered the situation and if he has not required the return of the child it may be taken that he supports the detention. The task of justifying the Order or its continuation can then reasonably lie with the Reporter.

(B) REFERRALS **18.48** In the course of the evidence mention was made of a 'referral' to a Reporter. Such language suggests a greater degree of formality than the Act envisages. In Strathclyde indeed the formality has been recognised in an express instruction that referrals to a Reporter by a local authority or certain other agencies require to be in writing. Such an approach is regrettable. In the present case the Reporter was informed of the proposed Place of Safety Orders and it must have been obvious that someone at least believed that the children might be in need of compulsory measures of care. The scheme of the Statute required the local authority to inform the Reporter. Even if that had not been done on 14th February sufficient information had reached him on his visit to Orkney some days later to require him to take action. The reason he did not and the reason why he remained simply as a spectator up until 27th February was because no-one had given him any written 'referral'.

18.49 Some clarity is desirable on the form, if any, in which information is to be passed to the Reporter. The Statute certainly leaves the matter quite open in that regard. As Mr Colvin observed if the Reporter is given all the evidence that is de facto a referral (121/174 see EI Annex 2 para 6). It was explained in the written submission by the Reporter and Deputy Reporter of Highland Region that they define a referral as 'any expression of concern regarding a named or identified child within our jurisdiction related to the grounds contained within Section 32 of the Social Work (Scotland) Act 1968'. In some areas it might be considered that a requirement for the information to be given in writing before it qualifies as the giving of information for the purpose of the statute is an unnecessary formality. In Strathclyde at least it is seen as a necessary control on the vast number of occasions on which information may be passed to Reporters. The matter is one for individual authorities to determine but what is important is that it should be determined and if writing is to be required it should be clearly known that that is the position. It should be clearly stated in all local guidelines or procedural rules in what form if any the information has to be given to the Reporter. Such a provision however can be nothing more than a guideline of preferred practice. To refuse to consider a case on which information has been received indicating the need for a Children's Hearing because the information is not presented in writing would put bureaucratic formality before the interests of the child. The statutory duty under Section 38(1) is plain and is not dependent upon the information being in writing.

18.50 The cases where a Reporter requires to consider the abandonment of a case which has been passed to the Sheriff for proof may not be many in number. But when this does occur he should discuss the position at least with the Social Work Department before finally deciding to abandon so as to hear any concerns they may have about the child's need for compulsory measures of care.

(C) THE REPORTER AND THE POLICE **18.51** After a case has been passed to the Reporter it becomes appropriate for the Reporter and the Procurator Fiscal to consult together in order to avoid any conflict between the courses of action which each may decide to take. No doubt some matters might require to be kept confidential to the Procurator Fiscal and

the Police, but their mutual interest in the well-being of the child should enable any necessary investigation to be effectively carried through until the Fiscal was either able to proceed to a prosecution or to decide that no prosecution was appropriate. A proof under Section 42 is likely to be held before any criminal prosecution can be brought and it is desirable that each agency should know whether there is to be a judicial investigation of the facts and in what form. In exceptional cases the Court of Session may be petitioned to hold back a Section 42 Proof pending criminal proceedings (*Humphries v X and Y*, 1982 SC 79). The difficulty may be one which rarely gives rise to such an extreme requirement but which of the two procedures has priority potentially is always a problem. At least after the matter has been passed to the Reporter he should be invited to attend all case conferences as well as the Police or even the Procurator Fiscal so long as prosecution remains a serious possibility. In this way all the agencies can be kept informed of the progress of the civil and criminal proceedings, as also the parents and carers where appropriate.

18.52 With a view to realising more effectively the priority to be given to the protection of the child the Reporter requires to be more fully informed by the Police where matters of child protection arise. Under Section 17(1)(b) of The Police (Scotland) Act 1967 the constables of a Police force have a duty where an offence has been committed to make such reports to the appropriate prosecutor as may be necessary for the purpose of bringing the offender with all due speed to justice. Section 38(2) of The Social Work (Scotland) Act 1968 provides that Section 17(1)(b) of The Police (Scotland) Act 1967 shall have effect as if that paragraph imposed a requirement on constables to make the reports thereby required to the appropriate Reporter in addition to the appropriate prosecutor. Thus where the child is an offender the Police are obliged to inform the Reporter. On the other hand where the child is a victim while a local authority is obliged to inform the Reporter under Section 37(1A), Section 37(1) which applies to a constable only provides that he may give the Reporter such information as he may have discovered. In practice the Police probably will pass all such information to the Reporter but it was generally recognised at the Inquiry that the matter should be a formal obligation on the Police. It is accordingly recommended that in all cases where a Police constable has reasonable cause to believe that a child may be in need of compulsory measures of care he shall be obliged to pass that information to the Reporter. The most satisfactory method of achieving this may be to include Police constables within Section 37(1A).

18.53 Another area of concern regarding the Police and the Reporter is the power of the latter to obtain information from the former for the purpose of the performance of his statutory duties. Under Section 39(4) the local authority has a duty to supply a report on the child and his social background at the request of the Reporter. The Reporter may well require material for a Section 42 proof which has been obtained by the Police or is held by them for possible criminal proceedings. The Reporter at present has to rely on the goodwill of the Police to obtain the material which is needed in the interests of the child for the Civil Proof and has no power to compel its production. In the present case there was delay in obtaining authority to hand over tapes of interviews to the Reporter and a question as to the propriety of articles recovered by the Police under a search warrant being handed to the Reporter for use as evidence in the Civil Proof. It is desirable that legislation should clarify the Reporter's power to obtain such articles. It is recommended that an express provision should be made enabling the Reporter to obtain from the Police any information or articles held by them so that subject to their being immediately required for purposes of criminal proceedings they may be available for the conduct of a proof under Section 42.

18.54 The possibility was raised that an independent authority was required to mediate between the Police and the Reporter or the Social Work Department. One view advanced at the Inquiry was that the chief constable or the designated officer mentioned in the Northern Constabulary Force Order would be able to resolve such a problem. Another idea was that a co-ordinator such as was being contemplated by the Child Protection Committee in Highland Region might serve as an arbiter between the agencies. It is to be hoped that in practice given a

sufficient level of management expertise that no mediator will be required. The representatives of the agencies should be able to resolve any differences which arise. If dispute ever did occur it would require to be resolved between the heads of the respective agencies. An independent mediator should not be necessary but Area Child Protection Committees would be an appropriate body to consider the mechanism for resolving any differences. If any possible requirement for mediation between agencies should occur the Area Child Protection Committee would be the proper body to consider the matter. It is not considered that any recommendation is required on this matter.

(D) ACCOUNTABILITY AND
STANDARDS

18.55 It should at least be recorded that wider questions were raised about the accountability of a Reporter. A question was raised whether the Reporter should be part of a national service, comparable with that of the Procurator Fiscal so that at least as a matter of public perception there would be a more clear independence from the local authority. In addition mention was made of the desirability of increasing and improving the training of Reporters and in particular the possibility of establishing a national training scheme. It was suggested in particular that training in child protection matters should be compulsory. A further suggestion was made that the post was not one to be undertaken on a part-time basis and all Reporters should be full time. These matters however are all no doubt being considered in the course of the current review of the Reporter's profession.

18.56 While the Reporter has a measure of discretion Mr Chant considered that some guidance could usefully be given on the exercise of that discretion within the framework of his accountability. As Mr Chant perceived it, the discretion can be exercised differently across Scotland and there is room for a greater uniformity. Thus in considering whether a child is in need of compulsory measures of care some guidance on the standards to be adopted in such a consideration would be useful such as whether it should be a matter of balancing probabilities or being satisfied beyond reasonable doubt. The matter has been taken up in the Report by ADSW in Section 6.4.0. It is recommended that consideration be given to the preparation of guidance for Reporters within the overall framework of their accountability.

XIX THE AGENCIES AND THE COMMUNITY

I. The Profession of Social Worker

(A) THE ROLE OF THE PROFESSION

19.1 The history of social work can be traced back long before the Act of 1968 but it has been subsequent to that Act that a distinct generic profession of social workers has emerged. Its forebears were the members of a variety of local government, voluntary and other bodies and the functions were undertaken incidentally by a variety of other professions. Having existed as a distinct profession for about a quarter of a century it may now be appropriate for the profession to look at itself and define more clearly its function, role and character for the future.

19.2 The principal goal may be the development of the profession of social worker as a profession perceived by the community to deserve respect because of the high level of its qualification and the skill and sophistication of its practice. The direction for future development should be primarily the responsibility of the profession itself. One matter for consideration may be the introduction of some system for registration of practitioners. Another is the encouragement into the profession of a greater number of candidates with attainments and qualifications in other fields including graduates of any discipline who have also undergone a course in social work. Another is whether the initiative should be a Scottish one or a UK one and whether there are particular aspects requiring a local approach.

19.3 The first step must be for the senior members of the profession to explore with each other and with representatives of other agencies whose work touches on matters of social welfare what the role and function of the profession should be for the future so as best to serve the needs of the community. This is a matter in which ADSW is well placed to take an initiative. The experience and guidance of SWSG would doubtless be available to assist and the co-operation of the other principal agencies should be sought for their advice and views. It is recommended that ADSW should promote debate in Scotland through social work and allied agencies regarding the role and function of social work as a profession for the future so as best to serve the needs of the community.

19.4 One characteristic of a profession should be that it is self-governing. What the social work profession in Scotland appears to lack is a sufficient central organisation whereby standards can be established, qualifications set and reviewed and discipline maintained over members of the profession. Such a body could also take initiatives in the training before and after qualification of practitioners. It should have a role in setting, improving and promoting good standards of practice. A principal aim would be the protection of the public by the setting of standards and developing a strict code of conduct and practice to which members of the profession would have to adhere when carrying out social work services for the public. Suggestions have been made regarding the need for the independent arbitration or complaints body to assess complaints and recommend improvements. The functions of such a body might well be undertaken by a disciplinary group not structurally separate from the central body albeit including others within it who were not members of the social work profession. It might also serve at least to stimulate if not promote research. The current movement towards a General Social Work Council which has the active encouragement of the British Association of Social Workers might enable such a development to be achieved. Thought also has to be given to the work of the profession on either side of the Border on account of the differences in legislation and procedure. It may be that the Association of Directors of Social Work which already exists as an active and central body in Scotland could provide the initiative for the creation of the

appropriate organisation. It is recommended that they should consider the taking of appropriate initiatives to develop a centralised self-governing profession.

(B) SPECIALISATION **19.5** It is suggested that the profession should have a hard look at itself and consider the demands made upon it and how far it is able to meet those demands. As its work has developed a greater requirement for specialisation has emerged. While a basic training may be managed on a general level the requirement now must be for a degree of specialisation in particular branches. Such specialisation has already for some time been recognised and realised in some areas of work, but the proportion of the profession who have so far been able to undertake specialised training is still very small. Specialised training in some areas is still very scarce and while in-service training within Regions attempts to develop skills, resources have not allowed more than a very small proportion of staff to undertake, for example, the specialist child protection post-graduate course at Dundee University.

19.6 As the profession and its range of work have developed the idea that one person can adequately undertake all tasks may be a matter now of impracticability. Specialised expertise is required in a variety of distinct fields of which child abuse and in particular child sexual abuse is one of prominence. The complexities of child abuse as it is now becoming to be understood are such as to warrant the development of the specialist practitioner. The Directors recognised that there are sound arguments for and against such a development in Section 3.10.0 of their Report and did not reach a concluded preference over the use of experienced social workers as distinct from specialist social workers. But work in cases of child sexual abuse makes particular professional, personal and emotional demands on staff. It is not an area to which all social workers are attracted nor indeed suited. It calls for a specialisation beyond what experience alone can offer. The whole area of work in child protection needs to be seen as a specialist area to be undertaken by practitioners with specialist skills and knowledge with adequate training and support.

(C) TRAINING **19.7** It is beyond question that an essential element in improving the service provided by the social work profession in the field of child protection is an increase in the facilities for training. Training was listed by SWSG as a principal area of activity as long ago as circular SW9 of 1988. The need exists at all levels and in every area of responsibility. CCETSW has been developing standards required to be met by social workers in different areas of practice and have been identifying the areas of competence which social workers must possess to work effectively in them. The qualification now places a greater emphasis on practical expertise in addition to academic achievement. The specialist training should be planned within the overall context of the whole area of child care and be based on general principles of good practice of universal application to social work.

19.8 One critical area for reappraisal is the scope of basic qualifying training. The present qualification is the CQSW obtained on courses open to graduates and non-graduates which can be obtained in one or two years dependant on previous qualification, experience and age. It is currently being superseded by a Diploma in Social Work which is to require a two-year training whatever earlier qualification or experience the student may have. But while the Diploma aims to achieve a greater uniformity of standards and is a welcome step in its recognition of the crucial importance of practice the evidence pointed strongly to the view that a two-year course was quite inadequate. The attempt to cover all that was required in a period of two years was declared to be unrealistic. Training to work with the wide variety of clients who now seek social services, including the complex work in matters of child sexual abuse which has only recently acquired a considerable prominence, cannot be adequately undertaken in two years. A three-year course appears to be common in other Member States of the EEC, it is advocated for the UK by the NSPCC in their written submission, and if Scotland is to improve the level of expertise in its social work departments the first step should be the introduction of a three year qualification. An additional year should

enable students to gain additional practical skills by undertaking carefully supervised practice. It is recommended that a three-year course should be introduced as soon as possible.

19.9 In recognising the need for social workers to be trained in the area of child abuse in general and child sexual abuse in particular it has also to be recognised that this is an area of expertise which not all members of the profession should necessarily enter. As ADSW observe in their Report at paragraph 3.1.8 'it must also be acknowledged that some social workers may, both for professional and personal reasons, feel unable or unprepared for work in the most complex cases in this field'. The profession, the managers and those concerned with training should recognise that particular areas of work may call for personal professional counselling and help in order to enable a student or even a practitioner to deal with personal past experiences which make that work particularly stressful for them and enable them to look beyond any problems of their own and give the greater service to the client. As Parent-Link observed in their written submission trainees in child-centred counselling need to have an opportunity to look at their own childhood and come to terms with it. Beyond that the profession at least in its more sophisticated branches now requires persons with a broad general education such as to develop what Ms Sylvia Hays described in her written submission as 'critical, clear and independent thought'. A particular suitability in character and qualification should be required of those working in specialised areas.

19.10 In addition to the need to extend and improve the basic training there is a clear need to increase the facilities for post-qualifying training. While this is a general need in respect of all the varieties of social work it is of particular urgency in the area of child protection, especially in relation to sexual abuse where knowledge is developing rapidly. Some useful guidelines on training have been produced in the Department of Health's publication 'Working With Sexual Abuse'. Problems exist at present both in a shortage of training officers and the cost of releasing staff to undergo training. The policy of the British Association of Social Workers as stated in their written submission is that social workers undertaking assessment and treatment planning in child protection work and preventive work with families should have at least two years post-qualification experience in child care work and post-qualification training as a minimum requirement. This is a matter which ADSW should consider as part of the review of the profession. The problems of resource and facilities require to be considered as a matter of priority by local and central government.

19.11 In the particular work of interviewing children training is of the very greatest importance. The dangers of not establishing a basis of reliable information where a child is alleged to have been sexually abused are equalled only by the risks of securing information which, particularly when subjected to the scrutiny of a Court, turns out to be at best misleading and at worst utterly false. It is not solely the child who is concerned. The alleged perpetrator or perpetrators may become subject to criminal proceedings. Family disruption is a frequent concomitant. That mistakes may at times be made in the delicate and complex process of securing reliable information from a child is understandable. But it is essential that the risk of such mistakes being made be reduced as far as ever possible. In the further and much more detailed and comprehensive training of interviewers lies the greatest prospect of achieving such a reduction.

19.12 Interviewing children where allegations of sexual abuse have been made demands that interviewers are of a high calibre of professional competence. They need to be experienced in a wide range of childcare work and also to have had the opportunity for specific training in interviewing children. The current basic social work qualifying courses do not cover the subject in the required depth. As was pointed out in the Cleveland Report interviews 'should be undertaken only by those with some training experience and aptitude for talking with children' (Para 12.34.2) and in the same paragraph the Report stresses 'the great importance of adequate training for all those engaged in this work' (Para 12.34.11). The suggestion has also been made that some further training in law and in particular in the law of evidence should be included in the training of social workers. There

is also a need for opportunities after qualification for those who will undertake interviews relating to allegations of sexual abuse to have further training in interview methodology, techniques, review and recording. Recording whether in note form, or by mechanical means on audio-tape or videotape demands skills which interviewers require to master. Training in recording techniques should form an important part of the training in interviewing children and should be given more particular attention than it presently receives. They will also need adequate supervised practice before embarking on investigative interviews. It is recommended that basic qualifying training for social workers when extended should include substantial tuition on interviewing children and that planning should be started for developing more extensive post-qualifying training to cover the complex subject of interviewing children.

19.13 On a wider level training for senior staff in management skills is also of importance and this is another area to which further attention might be paid with a view to furthering the training already done in that area. The management of professional social workers with the ability to respond appropriately and thoughtfully to questions and discussions on particular courses of action demands a sound managerial skill which cannot be expected to be possessed intuitively. Training in management skills should be extended so that managers can with confidence support and direct workers of considerable experience and skill.

19.14 The provision of such training brings particular problems to smaller authorities in remote areas. In such areas the total number of social workers may be smaller than a part of one local social work team in a large mainland authority. A very real problem arises where the island authority requires to cover the same range of duties as the large mainland authority when it comes to the obtaining of any specialisation or the arranging of training. Members of staff cannot be readily released for training courses when they are one of a small team. Small authorities may well not possess the expertise to run any form of in-service training so as to avoid depleting their members by sending a member of staff elsewhere. The solution cannot but have resource implications but the importance of securing such training is very considerable and a very high priority should be given to finding the most effective economical solution and securing the funding for it. The problem of child protection is now a major preoccupation and no social work department should be without a sufficient proportion of its staff adequately skilled and knowledgeable in the identification, investigation and management of it.

19.15 An important feature of training at all levels is that there should be joint training undertaken with other agencies and in particular with the Police. This is already a feature of a number of existing initiatives but its value is not to be overlooked. The support of the Police is an important element in much child protection work and the co-operation of the two agencies cannot be undervalued. It may assist in easing the problem of post-qualifying training for small authorities if training is arranged jointly with the co-operation of various agencies. It was stated during the course of the Inquiry that joint training between social work departments and the Northern Constabulary was being pursued. The Police have in the past run certain courses which included some consideration of child sexual abuse. In the particular matter of interviewing children common training between the agencies can help to improve trust between them and help towards their mutual co-operation to the greater benefit of the children. Joint training will assist in the development of nationally recognised procedures and enhance the relationship between the agencies when they require to work together.

19.16 In particular in relation to interviewing there is a need for workers who will be undertaking joint interviews to have the chance to train together. Such joint training does not obviate the need for the separate training for each agency. Each agency requires to include in their training a consideration of how their agency may fulfil its statutory responsibilities within the context of joint interviewing. Consideration requires to be given to the planning and monitoring of joint training and there must also be recognition of the financial implications of joint interview training as well as the costs of the training of the staff of individual

agencies. It is recommended that each Region develops joint training for interviewers of children where they are expected to undertake joint investigation of allegations of sexual abuse.

19.17 Furthermore training in child protection work should not be restricted to social workers and the Police. There are a number of agencies who could with advantage acquire a greater understanding of the problems, such as members of the Health Services and the Education Services, foster carers, Sheriffs and members of Children's Panels. Parent-Link point out in their written submission that of all the professions the people who are likely to know children best are school teachers and they suggest that experienced and child centred teachers should be selected and trained so that they could on a part-time basis assist in child protection work. It may be that an initiative is required here from SWSG. Consideration should be given to the provision of training to all those outside the social work profession and the Police who in one context or another may have an involvement in child protection work.

19.18 A suggestion was put forward that training should be provided by a centrally organised college comparable with that provided for the training of the Police. The suggestion is recorded here as it may well have some attractions although the resource implication may well be unacceptable. One importance of the suggestion may however lie in its recognition of the need for a clear central strategy in the practical and theoretical training of social workers in Scotland.

19.19 Every encouragement should in any event be given to the introduction of more specialist courses in existing colleges and universities following the initiative already taken in Dundee. Voluntary organisations have a recognised role in promoting information and developing skills and experience. Every encouragement and support should be given to the creation and development of specialist courses in social work in Scotland and the involvement of practitioners from all agencies, statutory as well as voluntary, in seminars and study groups, so that their particular expertise in particular area can be added to the existing provision. The basic requirement for improved training is of course further funding. The need is one of national importance and a high priority should be given to it.

19.20 The role of SWSG in initiating, arranging and securing the support of training and research is a vital one. They have in the past arranged funding for a variety of projects and training schemes. The specific grant for the training of social workers in local authority departments is of particular importance. Their recent creation of an Inspectorate would fit well with the initiative already suggested towards the clearer identification of a self-regulating profession in providing a national check that the professional standards set by the profession themselves are working satisfactorily in the establishments in which professionals are engaged. SWSG should be given every encouragement to initiate and promote further and fuller facilities for training including joint training between agencies, to recognise the resource implications which training has for the staffing of local services and to secure that there can be achieved in Scotland the level of training which will produce the standards of practice which the new Inspectorate will monitor. The RSSPCC suggested in their written submission that a national multi-disciplinary working party be set up under the auspices of the new Inspectorate to identify the skills and knowledge required for work in cases of child abuse set out standards and procedures for assessing and interviewing children and produce national guidance. A management group could then monitor the implementation of such guidance. The suggestion is recorded for the consideration of SWSG.

19.21 It should also be appreciated that work with problems of suspected child abuse is a labour intensive activity. If a service of the appropriate quality and standards is to be provided consideration has to be given to the level of staff in the appropriate departments of the agencies involved in such work. This necessarily has resource implications and it is recommended that local authorities give serious consideration to securing that there is a sufficient number of staff with the appropriate qualifications to deal with what is a growing burden of work.

II. The Police

19.22 Much of what has been said about the importance of training in matters of child abuse is applicable to the Police as well as to the other agencies. The current courses of basic training do not appear to cover the subject adequately. In particular the importance and the difficulty inherent in the work of interviewing children in cases of alleged sexual abuse as has been already mentioned requires to be more fully appreciated by the Police force. It is recommended that more extensive Police training in work relating to matters of child care should be provided particularly in the work of interviewing children.

19.23 Furthermore it should be recognised that the experience of dealing with such cases involves as much stress for Police officers as it does for social workers. It should be no mark of shame to admit the need for support in situations which can be emotionally painful and senior management in the Police force should be watchful for the need for such support and ready to provide it where required. The humanity and sensitivity which the work requires are due from all the agencies involved in it and call for a corresponding support.

III. The Public

(A) THE PUBLIC IMAGE **19.24** One matter of concern which was identified in the Cleveland Report was the readiness of the public and the media to level misplaced adverse criticism at social workers. The effect of this on them can be demoralising. Paragraph 17 of Part Three of the Cleveland Report called for the Press and the public to give social workers the support needed to continue in the work which the public requires of them. That message deserves to be repeated.

19.25 In the present case while the operation was a joint operation by the Police and the Social Work Department the hostility expressed by the public was directed at the Social Work Department and not to any significant extent at the Police. Social work departments do not enjoy the respect and confidence which is traditionally afforded to Police forces. Social workers can easily find themselves faced with an impossible choice in running the risk of public criticism for taking positive action where at the end of the day it turns out that no action was needed or for failing to act where some further incident demonstrates that they ought to have acted earlier. Too often and too easily are social workers criticised for having taken a child into care where it was not necessary or by failing to take a child into care only to find that something has in fact gone wrong. The public expectation that social workers should never err should be seen as the expression of a desire on the part of the public that the profession should achieve the high level of skill to which reference has already been made.

19.26 One problem for social workers is the reconciliation in the public's perception of their investigative role and their caring role. The investigatory duty should always be seen as complementary to their caring and supportive role and should never be given a primacy of position. While Section 37(1A)(a) requires the making of enquiries that is only in a case where a local authority has received information that a child may be in need of compulsory measures of care and further enquiry is necessary. Social workers should not be and should not be seen to be spies or detectives but should be recognised as agents for the provision of advice, guidance and assistance.

19.27 It is to be hoped that higher standards of training and the full development of a specialist expertise and the development of a central professional organisation would go a long way to meet this problem. Another possible course for improving the situation would be for the public to be better informed about the work of the social worker and indeed of the Children's Hearings system. As Mrs Trickett observed a lot of work goes quietly on and few appreciate that it is the social work department which is doing it. In the particular area of child protection work if the public had a better understanding of the nature of that work and of the difficulties and problems which it involves for those who on behalf of society seek to relieve them, that would go some way to restoring confidence and morale. It

could be more widely realised that practitioners in social work are, as it is put in the Report by ADSW (paragraph 1.7.3), 'working within a field of evolving knowledge and changing public attitudes and expectations. Often they can find themselves at the forefront of discovery without the support of established knowledge'. It could be more fully understood that much of the work is personal and confidential and cannot be advertised. What is required is the means for educating the public about this area of work and a public debate about the kind of protective services for children and families which the community wishes to have available. It is recommended that steps be taken to improve the public understanding of and encourage debate about the work of child care and child protection in Scotland including the work of the Children's Hearings and the Reporter.

(B) LOCAL KNOWLEDGE **19.28** A point which was stressed and elaborated in the oral submission made by Mrs McKenzie was the desirability for social workers engaged in child protection work to have a good knowledge of the locality and society of the area in which they are working. It is highly desirable that they should both know the community, its character, traditions and customs and be known by those whom they are there to serve. The trust and confidence which each should have in the other cannot be effectively secured if the social worker appears as a remote occasional visitor who does not in any sense belong to the area. However there must be limits to this approach. The social worker cannot be expected always to reside in a particular area. Indeed too constant a presence might well be counter-productive. A local office even if only occasionally but regularly manned and even if it also served for other purposes at other times should in rural areas assist in the establishment of such a relationship. It is recommended that the social workers should be readily accessible and available to the particular communities which they serve and know and be known by it.

(C) LANGUAGE **19.29** Another area which at least deserves mention is that of the use and precision of language. Above all the social work profession should be a profession of humanity. Its concern is with people not with cases. A de-personalising process which focuses on a problem rather than a person is to be discouraged. It is to be remembered that not only are children people and that parents are people and indeed that social workers are people. The clients should be treated as individual human beings and not as cases. One particular respect in which the sense of humanity may be lost is in the use of a technical jargon which clients may fail to understand and which only serves to obscure communication.

19.30 Every profession tends to develop a language of its own with a vocabulary of technical expressions. Sometimes these are regularly used but rarely subjected to precise definition. It is unfortunate that the normal use of the English language cannot be employed to describe operations and activities which ordinary language is perfectly capable of describing. This phenomenon was evident especially in relation to the interviewing of children. That activity was referred to as 'working with children', 'disclosure work', 'interview work', 'support and assessment', and 'disclosure therapy' as if there was some consciousness that in this context spades could not be called spades. While a label may be useful to distinguish an activity which requires a professional skill it is obviously useful to have a single label upon a single activity and preferably a label which describes honestly what the activity is.

19.31 The use of the term 'disclosure work' was rightly discouraged in the Cleveland Report as an inappropriate description of an interview whose object was to discover if a child had been abused because the term assumed that there was something to be disclosed. Beyond that this Inquiry showed it was open to different meanings which led to some misunderstanding between Mrs Susan Millar and the workers from Strathclyde. The former regarded 'disclosure work' as being the distinct and separate exercise of interviewing such as that upon which the RSSPCC were engaged along with the Police. Mrs Rena McCarry on the other hand regarded the removal of the children as the first step in disclosure work, the process not simply comprising a formal interview. This ambiguity contributed to Mrs Millar's anxiety about the Strathclyde workers' intentions regarding the interviewing of the children.

IV. The Local Community

19.32 The Inquiry was not concerned to explore the truth or otherwise of any suggestion of sexual abuse in the present case. Nor could it explore the effect which the removal of the children to places of safety might have had on them because that could not be assessed without an investigation of any prior experience which they might have had. It has to be recognised however that regardless of the merits of the case such a removal and detention in places of safety with the concomitant examinations and interviews and isolation from their parents is likely to have had some effect. Moreover in the case of some of the children it is not impossible that there could be some matters, perhaps far removed from any incidents in Orkney, which have been troubling them. A major concern in the Inquiry was to secure their protection. Concern for their continued welfare is not to be overlooked and it is to be hoped that every opportunity will be taken to secure such advice and assistance for them as will ensure that they are untroubled for the future so far as any effects of the Inquiry or the incidents which occasioned it are concerned.

19.33 One matter of local importance is the damage done to the relationship which should exist between the local community and the Orkney Social Work Department. It is in no-one's interests that that should be allowed to remain without attempts being made to repair the situation. Of course to be effective such attempts requires a spirit of willingness on the part of all the individuals involved and various initiatives were suggested in the evidence which might usefully be pursued. An assurance on the level of training and expertise of the members of the Social Work Department themselves is one element and in the long term if steps are taken to secure a high level of expertise in the profession, confidence and respect should more easily follow. More immediately it is suggested that a dialogue should be opened with the local community including the parents of the four families in particular to talk about the kind of services which the community would find helpful so that the senior management of the Social Work Department could then respond to those needs and any suggestions made and undertake to plan the development further with the community. Proposals were also made during the Inquiry for the involvement of some intermediaries to assist in the rebuilding of relationships. This should be explored and encouraged. It is to be hoped that initiatives will be taken by all those involved to secure a positive outcome. It is recommended that the Orkney Islands Council should take active steps towards improving the relationship between the Social Work Department and the local community.

PART FIVE
SUMMARY

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I INTRODUCTION

1. The following is a brief summary of the whole Report and is designed to serve as a short version of the whole. It is however stressed that for an adequate understanding both of the comments and the recommendations reference should be made to the full Report. The appropriate Chapter and paragraph numbers in the full Report are given in brackets.
2. In the First Part of the full Report (Chapter 1) the terms of the remit are set out and its limits discussed. Acknowledgement is made of the valued contributions which have been made towards the management of the Public Inquiry and the preparation of this Report. Mention is also made of a motion that the expenses of certain social workers who were parties to the Inquiry should be paid out of central funds which it is recommended should be done.
3. The Second Part (Chapters 2 to 12) of the full Report sets out the facts. The Third Part (Chapters 13 and 14) a commentary on the facts. The Fourth Part (Chapters 15 to 19) set out certain matters of recommendation.

II THE FACTS

1. In November 1990 following allegations of sexual abuse by one of the children of a family referred to as the W family the seven younger siblings of that family were removed from Orkney to the mainland of Scotland under Place of Safety Orders.
2. The removal of the W children attracted considerable adverse publicity and their mother attracted considerable local support. The Social Work Department became conscious of a quantity of correspondence sent for the W children which seemed to them vaguely suspicious.
3. During the months after their removal the younger children were interviewed by staff of the RSSPCC and the Northern Constabulary. On 6th, 12th and 13th February 1991 three of them made allegations of what was understood to be organised sexual abuse involving the children and parents of other families and a local minister, some of whom had figured in the correspondence with the W children and had supported Mrs W.
4. The Orkney Social Work Department then took steps towards the removal of nine children of the other families whom they believed were involved, referred to as the B, H, M and T families. They had the assistance of the police and obtained the services of social workers from Strathclyde and Central Regions seconded to them following a request faxed on 14th February.
5. A meeting was held with the Strathclyde workers on 21st February and they had a further meeting on 24th February to air certain concerns. The concerns of the workers from the mainland of Scotland remained alive after their arrival in Orkney and after various briefings on 26th February they came near to withdrawing their services.
6. Place of Safety Orders were obtained from a Sheriff on 26th February and on 27th February the nine children were removed from their homes by the social workers and police and flown to placements in Highland and Strathclyde Regions. They were for the most part not allowed to take any personal possessions with them.
7. Five of the children were placed separately with foster carers in Highland Region. In Strathclyde two sisters were placed together with one foster carer, their brother was with another foster carer and one boy was in a residential school.
8. Access between the children was refused as was access by other relatives.
9. The children in Highland Region attended local schools; the children in Strathclyde did not.
10. During the weeks following their removal the children were at various intervals interviewed by staff of the RSSPCC and the police.
11. A co-ordinator was appointed in each Region and curators ad litem were appointed to the children of each family.
12. The children were the subject of a reference to the Children's Hearing but the parents denied the grounds for referral and a proof to establish the grounds was arranged before the Sheriff. At the outset of the hearing an attack was made on the competency of the proceedings. On 4th April the Sheriff held the proceedings incompetent and the evidence was never heard.
13. After the Sheriff's decision and on the same day the children were returned to Orkney.
14. Thereafter the Acting Reporter appealed to the Court of Session against the Sheriff's decision but while he won the appeal he abandoned further pursuit of the proof on the grounds of referral.

III SUMMARY OF COMMENTS

(B) EVALUATION OF THE ALLEGATIONS

I. The General Background

- (A) THE W FAMILY
1. The Social Work Department viewed the case in general terms as an extension of the case of the W children and failed to consider the position of each of the nine children individually (13.1).
 2. The management of the Social Work Department failed to appreciate and make a sufficiently detailed study of the complexity of the problem of the W family particularly relating to the younger W children (13.2).
 3. The management of the Social Work Department failed to keep a wholly open mind regarding the allegations by the W children and allowed their thinking to be coloured by undefined suspicions which they failed to explore (13.3).
 4. No steps were taken to resolve the growing antagonism between the Department and the friends of Mrs W and the Department interpreted the sympathy of Mrs W's neighbours wholly as hostility to themselves (13.4).
 5. The staff of the agencies engaged by the Orkney Social Work Department to work with the W children failed to keep a sufficiently open mind regarding the evidence of organised abuse (13.5).

- (B) THE SOCIAL WORK DEPARTMENT
6. The Department was inadequately furnished with guidelines and procedures on child sexual abuse and the new management had not had time to prepare them (13.6).
 7. The Department failed to follow the guidance of Effective Intervention or the Cleveland Report, and in particular failed to have a multi-disciplinary conference (13.7).
 8. The Department failed to keep adequate records of meetings, communications and decisions and in particular failed to make any adequate record of the discussion on 14th February or of the decision to remove the children (13.8).
 9. The working relationship between Mr Lee and Mrs Susan Millar added additional strain to the stress under which they were working and did not assist in the handling of the situation (13.9).
 10. Unfamiliarity with the particular character of the community which the staff of the Department were serving made it less easy to assess the situation (13.10).

- (C) CONTAMINATION
11. An exaggerated view was taken of the risk of contamination of evidence by the professional staff of all agencies (13.11).
 12. The reception of children's confidences should not have been seen as an activity only to be conducted within special premises (13.12).

II. The Decision to Remove

- (A) THE CRITICAL INTERVIEWS WITH THE W CHILDREN
13. The methodology of the interviewers was open to question (13.13).
 14. There was a lack of clarity about the recording facilities to be used (13.14).
 15. The interviewers failed to arrange to have full facilities available for recording and management failed to check that recording facilities were being used (13.15).
 16. The records and reports of the critical interviews were inadequate so as to give rise to differences in understanding of what was said (13.16).
 17. There was no clear and defined appointment of a case manager. (13.17).

18. There was no clear system for any co-ordinated evaluation of the interviews (13.18).
19. The Social Work Department failed to give sufficient thought to the question whether it was necessary to remove the children (13.19).
20. There was a failure on the part of members of the staffs of the Social Work Department, the RSSPCC, and the police to distinguish adequately between taking the allegations seriously and believing them (13.20).
21. There was a failure by staff of the same agencies to appreciate the significance of the fact that the allegations did not come from the allegedly abused children (13.21).
22. The RSSPCC and the Social Work Department failed to make any detailed analysis of the information in the allegations (13.23).
23. The Social Work Department failed to investigate the suspicions they held regarding the correspondence (13.23).
24. Greater regard should have been given to the particular source from which the allegations had come (13.24).
25. Expert advice on the situation, such as psychological or psychiatric advice, should have been sought (13.25), especially where there was no thorough check on the assessment being made by the Sheriff or the Reporter before the children were removed (13.26).
26. There was insufficient inter-agency consultation (13.27); neither secrecy (13.28) nor urgency (13.29) were barriers to an inter-agency meeting and individual discussion was no adequate substitute (13.30).
27. The Social Work Department should have made further checks upon the oral and written accounts of the interviews (13.31).
28. The Social Work Department failed to analyse the grounds for the Place of Safety Orders appropriate to each child individually with particular reference to the H children (13.32).
29. To the extent that they were involved in the joint work of seeking to remove the nine children to places of safety criticism of the decision to do so also applies to the Northern Constabulary (13.33).

(C) EVALUATION OF THE RISK

30. The degree of risk to the nine children was not adequately assessed (13.34).
31. The Social Work Department failed to consider whether there was any other appropriate action than removal of the children (13.35).
32. The Social Work Department and the Police should have made further enquiries in co-operation with the authorities concerned (13.36).
33. The Social Work Department acted too precipitately and failed to take time to pause and think (13.37).
34. Both at the stage of planning (13.38) and in the presentation before the Sheriff (13.39) the Social Work Department failed to treat each child as an individual.
35. The complexity, labour and expense of the operation should have made the Social Work Department pause before deciding upon it (13.40).
36. The Social Work Department should in conjunction with others have reassessed the position in light of the results of the medical examinations (13.41).

(D) GENERAL

37. A combination of circumstances, the level of expertise in the Social Work Department, their reliance on the RSSPCC, the relative restraint on investigation, the experience with the W children, the apparent hostility of Mrs W's supporters and the pressures under which the two senior members of the Social Work Department were working, operated together to lead almost inevitably to the removal of the children (13.42).

III. The Preparation for The Removal

38. The planning of the uplift was carefully managed, including the choice of time and the preparation of safe resting places (13.43) although the Social Work

Department had inadequate resources of their own and without the high level of management expertise which so major an operation in the event required (13.44).

39. There was a failure in clear communication with the Strathclyde workers both in the terms of the fax of 14th February (13.45) and at the meeting on 21st February (13.46).

40. There should have been a formal record kept of what passed at the meeting on 21st February (13.47).

41. There should have been a written contract prepared stating the nature and extent of the work required by the incoming workers (13.48).

42. Mrs Susan Millar's approach was not well-suited to the proper management of the situation (13.49).

43. The planning and preparation in Orkney lacked organisation and control (13.50).

44. More information about the children should have been obtained for their foster carers and information about the placements should have been collected and given to the children (13.51).

45. The Social Work Department failed to keep up with the information on the later interviews with the W children (13.52).

46. There was inadequate planning of the arrangements to be carried out regarding the children after the children had reached the mainland of Scotland (13.53).

47. No provision was planned for the support of the parents (13.54).

IV. Joint Approach

48. There was inadequate co-operation throughout the operation (13.55) either in the planning or in the sharing of information between the Social Work Department and the Police (13.56).

49. The agencies should have agreed who could be told of the removal within the limits of secrecy (13.57).

V. The Mainland Workers

50. The mainland workers failed to anticipate and overcome the difficulties in mutual relationships which faced them (13.58).

51. The problems of relationship were not sufficiently appreciated by the senior management in Strathclyde (13.59).

52. The mainland workers should have been more open about their anxieties at the earliest stage and more objective in their attitude (13.60).

53. The leadership of the group of mainland workers should have been clear (13.61).

54. The management of the Orkney Social Work Department failed to anticipate the problems regarding the mainland workers, failed to plan adequate briefing of the incoming social workers (13.62) and failed to give them sufficient opportunity to raise questions about the proposed course of action (13.63).

VI. The Acting Reporter

55. The Social Work Department should have referred the cases of the nine children in writing to the Acting Reporter at the earliest stage (13.64).

56. The police should have passed their briefing form to the Acting Reporter on about 14th February (13.65).

57. The Acting Reporter should have acted earlier than he did under Section 38(1) of the 1968 Act (13.66).

58. The first lawful day hearing should not have been deferred to enable grounds for referral to be prepared (13.67).

59. The Acting Reporter should have inquired about the reliability of the information he received (13.68).
60. Certain of the form-filling by the Acting Reporter was inaccurate and his record-keeping was inadequate, but it was by no failure of his that due notifications did not reach the children in Strathclyde (13.69).
61. While no comment is made on the propriety of the holding of a 'business meeting' to canvass the views of members of the Children's Panel on the need for the children to attend a hearing the undesirability of such a meeting proceeding without knowing the views of the children or the parents is reserved as a matter for recommendation (13.70).
62. The Acting Reporter should have exercised greater patience and control in his conduct of matters at the hearings (13.71).
63. The Acting Reporter erred in opposing any reference being made to the results of the medical examinations (13.72).

VII. The Removal

64. The framing of the applications to the Sheriff for Place of Safety Orders was general and unspecific (14.1).
65. The conduct of the workers in the removal of the children was efficient and supportive (14.2).
66. The timing of the removals was beyond serious criticism (14.3).
67. The children should have been allowed to discuss the allegations during the course of their removal (14.4).
68. The older children should have been given a full explanation of their rights and the procedure during the removal (14.5).
69. The prohibition on personal possessions was inappropriate (14.6).
70. Copies of the Place of Safety Orders should have been made available to be left with the parents (14.7) as should written explanations of the procedure and of the rights of the parents (14.8).
71. The parents should have been asked to sign written consent forms for the medical examinations (14.9).

VIII. The Children in the Placements

- (A) THE MEDICAL EXAMINATIONS
72. The medical examinations in Highland Region should have been carried out before the children were settled in their placements (14.10).
73. There should have been a clear plan and direction that the examinations were to be both general and particular in character (14.11).
74. Mr Philip Greene should have secured that both such examinations were carried out in Glasgow (14.12).
75. The confusion about the medical examinations in Strathclyde should have been resolved by a meeting of the parties concerned (14.13).
76. The results of the medical examinations should have been given to the parents (14.14).
- (B) THE PLACEMENTS
77. The choice of placements in the Highland Region was satisfactory but the choice of urban placements for the B children was unfortunate, (14.15) and SM's placement was wholly inappropriate (14.16).
78. The staff at Geilsland School and all the foster carers exercised proper care although the foster carer for the B girls had difficulty in adjusting to the special circumstances of the case (14.17)
79. Siblings should not have been given separate placements (14.18).
80. The Orkney Social Work Department should have obtained more complete and accurate background information about the children before or after their removal (14.19).

- 81.** A more courteous response to the suggestion of alternative placements should have been given (14.20).
- (C) **ACCESS**
- 82.** Some access between siblings and by the parents and other relatives should have been allowed (14.21) and the matter of access should have been kept under more active review (14.22).
- 83.** The Social Work Department should not have interfered with the passage of correspondence to the children (14.23).
- 84.** The children should have been permitted and encouraged to write to their parents (14.24).
- 85.** Inadequate attention was paid to matters of religion (14.25).
- (D) **EDUCATION**
- 86.** The education of the children should have been clearly planned and arranged in advance of the removal as soon as the placements were known (14.26).
- 87.** More effort should have been made to send work to the children in Strathclyde and to SM in particular (14.27).
- 88.** Further effort should have been made to provide for the education of the children in Strathclyde and in particular, failing their attendance at schools, to provide tutors for them (14.28).
- 89.** There was no significant shortcoming in the arrangements for the children's education in Highland Region (14.29).
- 90.** The case conference of 19th March should have taken more concern about the arrangements for the children's education in Strathclyde (14.30).
- (E) **MANAGEMENT**
- 91.** The management of the children in the Highland Region was satisfactory (14.31) but the management in Strathclyde Region was more problematic (14.32).
- 92.** The management in Strathclyde was made more difficult by several factors including the lack of advance appreciation of the problem, late arrival of the co-ordinator (14.33), a lack of confidence among the Strathclyde staff in the Orkney Islands Council (14.34), a dissatisfaction with the work of the RSSPCC (14.35), and the highly structured character of working procedures which prevailed in Strathclyde Region (14.36).
- 93.** There was also a lack of clarity in the roles of the principal persons involved in Strathclyde (14.37), the role of the RSSPCC should have been more fully explained to the foster carers in Strathclyde (14.38), the identity of the children's social workers should have been clarified for the benefit of the foster carers (14.39) and the role and responsibilities of the foster carers should have been defined more clearly (14.40).
- 94.** The lines of communication were not clear within Strathclyde Region with too many people involved (14.41).
- 95.** The stress and notoriety of the case added to the difficulties within Strathclyde Region (14.42).
- 96.** But despite the uncertainties and difficulties the children were well cared for (14.43).
- (F) **THE CO-ORDINATORS**
- 97.** While the decision to appoint co-ordinators was sound their precise duties should have been recorded in writing (14.44).
- 98.** The appointment of the co-ordinator in Highland Region was made and undertaken early and worked well (14.45).
- 99.** Further thought could have been taken in the formulation of information passed to the parents of the children in Highland Region. (14.46).
- 100.** The role and authority of the co-ordinator was not clearly understood in Strathclyde Region (14.47).
- 101.** The co-ordinator in Strathclyde should have been in place before the children arrived (14.48) and should have been appointed from among the Strathclyde staff (14.49).
- 102.** Further steps should have been taken at an early stage to clarify the roles and responsibilities of the staff involved with the management of the children in Strathclyde (14.50).

103. The co-ordinator in Strathclyde should have spent more time with the children and foster carers in their homes (14.51) and should have explained the grounds for referral to the children there (14.52).

(G) THE CURATORS **104.** All agencies and parties co-operated with the curators and assisted them (14.53).

105. While it was a correct decision to make application for their appointment specific powers should have been sought for the curators at the time of their appointment (14.54-55).

IX. The Parents and The Social Work Department

106. Inadequate consideration was given by the Social Work Department to the support of the parents (14.56) and their staff failed to support or visit the parents after the removal of the children (14.57).

107. Further and fuller information should have been given to the parents, they should have been invited to the case conference held in March 1991 (14.58) and they should have been given information about the whereabouts of their children (14.59).

X. The Interviewing of the Nine Children

108. No specific decision to interview the children was taken or recorded. (14.60).

109. There was no detailed consideration of the purpose of the interviews (14.61) and no detailed planning of them (14.62).

110. No detailed assessment was made of the mental and developmental status of the children (14.63).

111. The interviewers' workloads were inadequately planned and monitored (14.64) and there were no regular reviews of the interviewing planned or held (14.65).

112. There was inadequate joint planning for the interviews (14.66), no joint supervision (14.67) and no sufficient mutual understanding of the inter-relation of the work of the agencies (14.68).

113. No plan was made for assessing and reporting on the work (14.69).

114. Insufficient consideration was given to the propriety of using the interviewers who had been involved with the W children (14.70).

115. There was some deficiency in the experience and skill of the RSSPCC interviewers (14.71), inadequate control of their practice (14.72) and no clear system for supervision and support (14.73).

116. The police interviewers were inadequately trained (14.74) and lacked adequate supervision (14.75).

117. No adequate consideration was given to the number of interviewers required (14.76).

118. There was no clarification of the kind and extent of background information necessary for the interviewers (14.77).

119. Consideration should have been given to the relationship to be developed between the interviewers and the carers of the children (14.78).

120. While the facilities were adequate (14.79) there were inadequate instructions given with regard to the method and nature of the recording of interviews (14.80).

121. Further consideration should have been given to the video-recording of interviews (14.81) and the quality of audio-recording was at times deficient (14.82).

122. A co-ordinated approach to the need for prompt transcribing of audio-tapes should have been devised (14.83).

123. Inadequate written records were made of the interviews and inadequate attention paid to the recording of details of the creation of the drawings (14.84).

124. There was a failure in the collation of all the information about the children as could have been achieved by a case manager (14.85).
125. An approach to the interviewing was adopted by the RSSPCC and allowed by the Orkney Social Work Department which was inappropriate for investigative work (14.86).
126. The interviewers failed on occasions to pursue matters raised by a child and were unduly concerned with their own agenda (14.87).
127. The interviewers failed to plan adequately how to deal with a child's denial of allegations (14.88) and how to introduce explicit information (14.89) and they over-stressed their belief in the truth of the allegations (14.90).
128. The interviewers made inappropriate use of the technique of re-introducing earlier drawings (14.91), of leading questions (14.92) and in one case of personal material (14.93).
129. Neither the number (14.94) nor the programming (14.95) of interviews were planned in advance while their duration varied with the circumstances (14.96).
130. The timing and the scheduling of the interviews was varied (14.97) and in some instances the number was excessive (14.98).
131. The purpose of the interviewing was not explained fully to the children (14.99).
132. The children were satisfactorily looked after at interviews (14.100) and all the interviewers demonstrated a proper care and concern for them (14.101).

XI. The Closing Stages

133. The return of the children was precipitate (14.102) but justified in the circumstances (14.103).
134. The grounds for abandoning the proceedings were open to debate (14.104), the decision to abandon was unfortunate in the interests of the parties interested (14.105), was regrettably precipitate (14.106) and from the practical viewpoint of those caught up in the affair mistaken (14.107).
135. While the campaign mounted to support the parents in seeking the return of the children did not assist towards constructive dialogue (14.108) an easily identified medium for complaints should have been available (14.109).

IV SUMMARY OF RECOMMENDATIONS

I. Child Protection (Chapter 15)

- (A) CHILD SEXUAL ABUSE
1. Reform in the field of child law and in particular in matters of child protection should proceed under reference to the European Convention on Human Rights and the UN Convention on the Rights of the Child (15.2-3).
 2. As regards terminology it is recommended that in the investigation and practical management of cases of child sexual abuse care should be taken to avoid the use of labels without a common understanding of the definition and the purpose of the label (15.11).
 3. Steps should be taken to increase public awareness of the problem of child sexual abuse and of the difficulties inherent in the work of investigation of child abuse (15.17).
 4. Consideration should be given to the development of training and services to deal with the levels of stress experienced in work in relation to child sexual abuse (15.18).
 5. Consideration should be given in all agencies where the need is recognised to the provision of an appropriate support system for those engaged in child protection work including those at managerial levels. Senior staff in Social Work Departments and Police Forces should within a set period work out what support is needed and programme its provision (15.19).
 6. Area Child Protection Committees should be encouraged to take active initiatives in suggesting courses of action, training, practical planning and other positive projects to secure that the whole needs of child protection are effectively and efficiently met in their area (15.20).
- (B) INVESTIGATION OF CHILD SEXUAL ABUSE
7. Those involved in investigating allegations of child sexual abuse must keep an open mind and not fall into the trap of confusing the taking of what a child says seriously with believing what the child has said (15.22).
 8. Where allegations are made by a child regarding sexual abuse those allegations should be treated seriously, should not necessarily be accepted as true but should be examined and tested by whatever means are available before they are used as the basis for action (15.23).
 9. The recipient of a confidence from a child must above all display sympathy and understanding and not transmit any element of disbelief (15.24).
 10. In the investigation of multiple sexual abuse a high level of secrecy and organisation, a carefully planned approach and a degree of caution should be adopted (15.26-27).
 11. In cases of child sexual abuse neither a referral nor a removal of a child should be undertaken unless both an objective assessment of the situation has been made and in addition meticulous planning, so as to balance the risk inherent in intervention against the success of the legal process (15.28).
 12. In a joint approach while investigation of a case is properly a matter for the police each agency should share fully with each other the whole information relevant to their particular responsibilities (15.30-31).
 13. At least in cases of suspected multiple sexual abuse a senior member of the staffs of the Police and Social Work Department should be designated to co-ordinate their joint work (15.32).
 14. To assist in practical co-operation both agencies should engage in joint training and should prepare joint guidelines (15.33).

15. The discovery of sexual abuse is not the monopoly of any agency. In particular, schools should establish close links with their local Social Work Departments. Teachers should be designated to be trained in the recognition of child sexual abuse and the roles of the various professionals who may be involved (15.34-35).

16. The administrative bodies of all schools should be helped to develop an awareness of the problems involved in child sexual abuse and the roles of the various agencies engaged in dealing with it (15.36).

17. Education authorities should recognise the problems created for teachers in their continuing work where a teacher has become involved as a potential witness in relation to an allegation of abuse. All steps should be taken to minimise the effect which such a situation may have on the relationship between the teacher and the family by securing as much confidentiality as possible at all stages of the process (15.37).

18. Any information about children which is to be used for the purposes of their compulsory care and which is provided by their school-teacher should be provided in writing (15.38).

19. In any case of child sexual abuse an inter-disciplinary meeting should be held at the earliest stage (15.39). Parents should usually be informed from the outset that the suspicion exists and that the matter is being investigated. Their co-operation should be sought (15.40-41). Consideration should be given to making enquiries of adults rather than of the children (15.42) and enquiries should be discreetly made from every available relevant source (15.43).

20. Social Work Departments should have recourse to independent professional advice in all appropriate cases in addition to the carrying out of any necessary medical examinations. A list of persons suitably skilled and experienced in providing such advice should be available to all Social Work Departments. It may also be appropriate to have recourse to advice from a child psychiatry team (15.44-46).

21. Where two separate local authorities become involved in the investigation of a case of suspected multiple sexual abuse which extends over both their areas the heads of the respective agencies involved should make special arrangements to ensure complete co-operation (15.47).

22. All agencies involved in child protection work should have a contingency plan to enable them to make an effective and appropriate response to media interest to be mounted if occasion should require it and consideration should be given to a more open approach than may have been traditionally adopted (15.48).

23. Guidelines should allow for the possibility of abusive activities of a kind hitherto not clearly identified or recorded (15.49).

24. Consideration should be given to empowering a Sheriff to order a suspected abuser to be excluded from contact with a child where abuse is suspected (15.51).

25. Consideration should be given to the adoption of alternatives to prosecution in appropriate cases (15.52).

26. While there should be no decriminalising of child sexual abuse, consideration should be given to alternatives to imprisonment in cases at least of intra-familial child sexual abuse (15.53-54).

(C) GUIDELINES 27. While guidelines should be available for practitioners working in cases of child sexual abuse they should not be mandatory rules but guidance for normal procedure (15.55-56).

28. All local authorities should have guidelines for the management of cases of child abuse consistent with and in the context of national guidelines (15.57).

29. A new edition of national guidelines for Scotland should be prepared embodying extracts from the relevant legislation (15.58-59) set in the context of a clear statement of basic principles (15.60).

30. The national guidance should be prepared with the co-operation of all agencies and disciplines engaged in work in the field of child abuse and be available as guidance for all of them (15.61). It should include guidance on all forms of sexual abuse including multiple abuse (15.62), and should recognise the difference

between operational and managerial guidance in cases of multiple sexual abuse (15.63).

31. The national guidance should include guidance on the principles to be followed where authorities or agencies of different areas require to co-operate in dealing with complex cases of child abuse together with other particular matters suggested in the main Report (15.64-65) and a new title should be given to the national guidance (15.66).

(D) THE ISLAND PROBLEM 32. So far as the problem of a small local authority requiring to deal with a major case of suspected multiple sexual abuse is concerned it is not recommended that any solution along the lines of constitutional change should be adopted (15.67-69)

33. While practical assistance by way of extra staff may be obtained from geographically adjacent regions or failing that from other parts of Scotland (15.81) a central resource should be established to provide a high level of expertise for guidance, advice and support in particular cases where such assistance may be of service (15.70-79).

34. ADSW with the support of SWSG should set about the creation of a resource group whose members would be available when required to advise any social work agency in cases of particular complexity (15.80).

35. Area Child Protection Committees should prepare lists of psychiatrists and psychologists available to give professional advice when required (15.82).

(E) RESEARCH 36. Research should be urgently undertaken into all forms of child sexual abuse and in particular cases of multiple abuse and into the provision of personal social services in the islands authorities and the less populated areas of Scotland (15.84-88).

II. The Removal of Children to Places of Safety (Chapter 16)

(A) THE POWER TO REMOVE 37. Section 37(2) of the Social Work (Scotland) Act 1968 should be re-written so as expressly to empower removal of a child where the child is likely to suffer imminent and significant harm of any kind and the removal is necessary for the child's protection (16.1-6).

38. Guidance should be given on the occasions on which the discretion to instruct removal should be exercised (16.7).

39. In all training in matters of child abuse account should be taken of the opportunity which a child has to take steps for his or her own protection (16.8).

40. Removal of a child should be recognised as a course to be considered where no alternative exists and the urgency of the risk requires it (16.9). Caution must be exercised (16.10). The gravity of the threat has to be considered (16.11) and the applicant must be satisfied that the situation calls for immediate removal of the child (16.12).

41. To avoid confusion a name other than 'Place of Safety Order' or the corresponding English Order should be adopted and the title 'Child Protection Order' is used for convenience (16.13)

(B) PROCEDURE 42. A record should be kept of the grounds for any decision to seek a Child Protection Order (16.14).

43. Where it is considered that a Child Protection Order should be executed but the Order cannot be effected immediately a clear written record should be made of the decision to obtain it, the reason for it and the reason why it cannot be immediately effected (16.15).

44. A Child Protection Order should only be sought where there is clear and cogent evidence to support the Order (16.16).

45. Where there is a likelihood of harm continuing to the child if he or she is not retained in care the evidence for a Child Protection Order should be sufficient

to give a reasonable expectation of securing such retention after a referral to the Children's Hearing (16.17).

46. The Sheriff or JP granting the Order must be satisfied on the whole material which is placed before him or her that there is reasonable cause to believe that the child is likely to suffer significant harm if the child is not removed (16.18).

47. Guidance should state for the avoidance of doubt that evidence from two or more separate sources is not a formal necessity for the obtaining of a Child Protection Order (16.19).

48. Child Protection Orders should be obtained either from a Sheriff or a JP but where the case is one of suspected sexual abuse the Order should if practicable be obtained from a Sheriff (16.20).

49. Encouragement should be given to further training of JPs (16.21).

50. No change should be made so far as concerns the definition of the persons who may remove a child to a place of safety (16.22).

51. Consideration should be given to the possible amendment of Sections 14 and 323 of the Criminal Procedure (Scotland) Act 1975 so as to bring their terminology into accord with the revised provisions of Section 37(2) of the Act of 1968 (16.23).

52. A simple standard form should be designed for applications for Child Protection Orders in Scotland (16.24).

53. At the time of making the application or within forty-eight hours thereafter a written statement of facts setting out the grounds for the perceived risk to the child should be prepared and presented to the Sheriff or JP (16.25) The evidence need not be given on oath or affidavit (16.26).

54. The Order should contain a brief statement of the grounds on which it was granted in addition to the other necessary details (16.27).

55. The child and his or her parent or guardian should have an immediate opportunity to have the Order varied or cancelled by the Sheriff (16.28).

56. The Reporter's existing power to have the child returned should continue but should be qualified in its exercise by the proviso that the return of the child would not expose the child to the risk of significant harm (16.29).

57. A Child Protection Order together with the form of application and any supporting documentation should be intimated both to the police and to the Reporter (16.30).

58. On the occasion of the grant of a Child Protection Order such authorisations or supplementary Orders as may be appropriate to the circumstances should also be granted (16.31).

59. Where the address of the child or children should be concealed from the parent a specific Order should be made to that effect at the time of the grant of the Order with or without a limit on the period for such concealment (16.32).

60. Child Protection Orders should be enforceable only within a period of three days only from the date of the grant (16.33).

(C) ENFORCEMENT 61. The time for the removal of a child must depend upon the whole circumstances of each particular case but the prime consideration must be the welfare of the child (16.34).

62. At least in complex cases those involved in the removal of the child should be given full written instructions (16.35).

63. Social workers and police officers removing children to places of safety should when practicable be given sufficient information to enable them to inform the child and the parents about the place of safety (16.36).

64. Where practicable written information should be available about the background of the child for the use of the social worker or police officer removing the child (16.37).

65. A spare copy of the Order should be given to and left with the parent when the child is removed or delivered to them at the earliest practicable time thereafter (16.38). In addition to the copy of the Order a clear explanatory document should be made available to the parents (16.39).

66. Guidance should be given on the need for maintaining contact with the parent and the method of securing that contact despite the risk of hostility which the worker may require to face (16.40).

67. The fullest possible information about the background of the child should be made available to the child's carer together with such administrative detail as the carer will require for the well-being of the child (16.41).

68. No special forms need be required when a child is removed to a place of safety but where occasion permits the Reception into Care Forms should be completed as far as possible to reflect the information available (16.42).

(D) INTERIM PROTECTION ORDERS 69. A procedure should be introduced for application to the Sheriff to obtain any of a wide range of Orders as may be appropriate in the circumstances either for purposes of investigation or for the immediate protection of a child pending investigation. Such Orders are here referred to as Interim Protection Orders (16.43-44).

70. The application for an Interim Protection Order should be intimated to the child and to the parent and they should be given an opportunity to object to it (16.45).

71. Guidance should be given on the matters to be considered before resort is had to an Interim Protection Order (16.46).

III. Children in Places of Safety (Chapter 17)

(A) MANAGEMENT 72. When a child is removed under a Child Protection Order the local authority should be under the same obligations as are set out in Section 20(1) and (2) of the Act of 1968 (17.1-2).

73. Where consents are required for matters of the care of the child, for interviewing or for examination and parental consents are not forthcoming, specific powers should be obtained from the Sheriff (17.3).

74. Procedures should be provided for the resolution of any disputes regarding the welfare of the child either by the Sheriff or by the Children's Hearing, depending on which of them has last given directions regarding the child (17.4).

75. Any Order authorising the removal of a child should require the person so authorised to intimate the removal and the whereabouts of the child to the appropriate Social Work Department (17.5).

76. Correspondingly any constable or other person removing a child should give a like intimation to the Social Work Department (17.6).

77. Due consideration should be given to the views of the child in all matters affecting him or her (17.7).

78. Where a child is placed outside the area of the child's own local authority the Social Work Departments of the two areas should have a clear mutual understanding of the roles and responsibilities of those involved in the care of the child (17.8).

79. Where a child is placed outside the area of its own home authority a social worker preferably of the home authority should be identified and allocated to that child (17.9).

80. In all cases of Child Protection Orders there should be an opportunity for the appointment of an independent person with a role wider than that of the present safeguarder to protect the child's interests (17.10-12).

81. All local authorities should explore the sufficiency of their supply of persons able and willing to serve in the capacity of safeguarders and if that supply is deficient should take steps to recruit a greater number and arrange training for them (17.13).

82. In every case when a child is removed under a Child Protection Order the appointment of a safeguarder must be considered at the time of the granting of the Order or if the appointment is not then made at any later stage when the case comes before the Sheriff (17.14-15).

83. Where curators ad litem are appointed their specific powers should be stated in the interlocutor of their appointment (17.16).

84. A pilot scheme should be run in order to try out an enhanced role of a safeguarder in cases of child protection before further consideration is given to the possible development of a Child's Advocate (17.17).

(B) FACILITIES **85.** Where siblings who have been living together are taken into care following allegations of abuse they should not be placed separately unless there is some compelling reason in their own interests for so doing (17.18-19).

86. Where siblings are placed separately that matter should be kept under regular review (17.20) and they should be permitted reasonable access to each other subject to an appropriate degree of supervision (17.21).

87. In general, children should be allowed to retain such personal possessions as they reasonably wish or require (17.22).

88. In general, reasonable access to a child in a place of safety should be permitted to parents, relatives and friends (17.23) and restrictions on access should only be imposed if there are compelling reasons justifying such restrictions in the interests of the child (17.24).

89. Access should be kept under constant review while a child is in a place of safety (17.25).

90. The Sheriff should be empowered to regulate access to a child in a place of safety and should be obliged to consider that matter when the case first comes before him or her after the granting of the Order (17.26-27) with the assistance of a confidential report where appropriate (17.28).

91. The same principles and procedures as apply to access should also be made applicable to all forms of communication between parent and child (17.29).

92. Any dispute regarding visits by professionals to a child should be resolved by application to the Sheriff (17.30).

93. Where local authorities exercise any powers involving the removal of a child from home, their Social Work and Education Departments must, at the earliest practicable stage secure that provision is made for the continued education of that child (17.31).

(C) FOSTER CARERS **94.** Orkney Islands Council should take immediate steps to recruit more foster carers within the islands (17.32).

95. SWSG should take urgent steps to assist all local Social Work Departments in a positive initiative to increase their stock of foster carers (17.33).

96. Consideration should be given to a possible provision for refuge for children and to a possible amendment of the definition of 'places of safety' (17.33).

97. Foster carers should be given a written report at the time when the child is placed, or as soon as practicable thereafter, with as much personal information about the child as possible (17.34).

98. Foster carers should be kept informed of any developments regarding any child in their care and of any course of action being taken with the child (17.35).

99. Where children are placed with foster carers belonging to another local authority, a copy of the terms of the agreement between the two authorities regarding the placement should be available to the foster carer so that lines of support and communication are clearly understood (17.36).

(D) PARENTS **100.** It is not recommended at present that a Parent's Advocate should be appointed to represent parents in contacts with the Social Work Department (17.37).

(E) MEDICAL EXAMINATIONS **101.** Medical examinations of children removed under Child Protection Orders should be carried out before they enter their placements (17.38).

102. Local authorities should prepare lists of appropriate persons to carry out medical examinations of children suspected of sexual abuse in so far as they have not already done so (17.39).

- 103.** Where a child is being examined for evidence of sexual abuse a general examination of the child's health should be carried out at the same time (17.40).
- 104.** The Sheriff should be empowered to authorise a child to be taken for a medical examination (17.41), although the carrying out of the examination should not proceed if the child refuses to be examined (17.42).
- 105.** In general, a parent should be told the results of a medical examination of their child (17.43).
- 106.** A child should be able to choose whether the examination is conducted by a female or a male doctor (17.44).
- 107.** No recommendation is made regarding consent to medical treatment in light of the passing of the Age of Legal Capacity (Scotland) Act 1991 (17.45).
- (F) THE INTERVIEWING OF CHILDREN
- 108.** There should be a greater recognition by agencies, training colleges, Central Government Departments and the public of the complexity of the task of interviewing children where allegations of sexual abuse arise (17.47).
- 109.** The purpose, techniques and course of any interviews should be planned at the outset as well as the need to make an overall assessment of the child (17.48).
- 110.** Consideration should be given to the classification and terminology of the various types of interviews which may be held (17.49).
- 111.** All details should be thoroughly planned before any interviewing starts (17.50).
- 112.** The consents of parents and of children where of a maturity to give consent should be sought prior to investigative interviewing being undertaken (17.51).
- 113.** The importance of full training in the art of interviewing and the techniques of recording should be fully recognised (17.52).
- 114.** Wherever possible interviewers who have dealt extensively with children making allegations about other children should not be involved in interviews of those other children (17.53).
- 115.** Each interviewer should wherever possible have consistent and relevant background information about the child and in particular about his or her emotional, physical and mental development (17.54), and an assessment of the child's wider family (17.55).
- 116.** The importance should be recognised of interviewers keeping an open mind on the truth or otherwise of any allegations (17.56).
- 117.** Clear communication channels should be set up from interviewers to case managers (17.57).
- 118.** Where investigative interviews are being undertaken the contribution of foster carers must be valued, collected and recorded (17.58).
- 119.** Where agencies are to undertake joint interviews, there should be an agreed strategy both for the course of interviews and for the resolution of disputes and for the assessment of the ongoing work both by managers and interviewers (17.59).
- 120.** Interviewers should be involved in decisions relating to the care of the children while they are in places of safety and the extent of their involvement should be defined (17.60).
- 121.** No more than two investigative interviews per interviewer per day should be undertaken and their workloads should be regularly monitored (17.61).
- 122.** Attention should be given to the development of more facilities suitable for interviewing children in relation to child abuse (17.62). Area Child Protection Committees should undertake an audit of premises and facilities that may be available locally (17.63).
- 123.** Every effort should be made to improve recording techniques and maintain consistent recordings throughout a series of interviews (17.64) The standards and practices of recording should be regularly monitored (17.65).
- 124.** Whether or not there is mechanical recording, a full written record must be made as soon as possible after each interview (17.66).
- 125.** Any drawings made during an interview should be labelled at the time of creation to enable the occasion and their creator to be clearly identified (17.67).

- 126.** Clear arrangements should be made to secure the control and custody of any audio-tapes or video-tapes of interviews with children (17.68).
- 127.** Where interviews involve complex or multiple sexual abuse allegations there must be provided individual personal supervision, management supervision and detailed interview supervision (17.69).
- 128.** Where interviews are being undertaken jointly, supervision should be planned on an occasional but regular joint basis (17.70).
- 129.** An interviewer's manager should have a clear understanding of all the people from whom the interviewer is receiving support (17.71).
- 130.** A decision should be made on the number of interviewers required prior to any interviews starting (17.72).
- 131.** In general a maximum of two investigative interviews per child per week should be appropriate and the frequency of interviews is a matter for regular review (17.73).
- 132.** The timescale for investigative interviews should be determined at planning meetings (17.74).
- 133.** An initial series of investigative interviews should usually not exceed four (17.75).
- 134.** Any departure from the purpose or number of interviews should only be made after a full review of the situation and the agreement of all agencies (17.76).
- 135.** Before embarking on an investigative interview interviewers should consider the matters of denial and retraction by a child, the interviewer's knowledge of information relating to allegations, the interviewer's own agenda, the use of leading questions and the introduction of personal material (17.77).
- 136.** As part of the national guidance already recommended SWSG should undertake the preparation of guidelines for the investigative interviewing of children in consultation with representatives of all the agencies and professions who may be involved in that work (17.78).
- 137.** A departure from suggested guidelines should not be automatically seen as a breach of good practice (17.78).

IV. The Children's Panel and The Reporter (Chapter 18)

- (A) THE CHILDREN'S HEARING **138.** Consideration should be given to the review and revision of the work of the Children's Hearings in the area of child protection (18.1-6), including as is suggested later the transference to the Sheriff of all matters relating to a child in a place of safety (18.7).
- (B) PROCEDURE **139.** Clarification of the statutory provisions relating to the first lawful day hearing under Section 37(4) of the 1968 Act is required (18.8-18).
- 140.** A procedure should be introduced by an amendment to the Social Work (Scotland) Act 1968 enabling immediate recourse to be made to the Sheriff for a decision on the question whether a child reasonably requires to be in a place of safety (18.19).
- 141.** A parent, guardian or safeguarder of the child should be entitled to apply to the Sheriff for recall of the Order at any time within seven days after the removal of the child (18.20).
- 142.** The processing of Child Protection Orders should be transferred from the Children's Hearing to the Sheriff with certain consequential changes in the procedure of referral (18.21).
- 143.** Consideration should be given to securing that legal aid is available in the proceedings before the Sheriff (18.22).
- 144.** If grounds for referral have not been served within seven days of the removal of a child under a Child Protection Order, the Order should fall (18.23).
- 145.** A single overall time limit on the detention of a child whether under Section 37 or Section 40 or both Sections of the 1968 Act should be introduced (18.25-26).

- 146.** Provision should be made for the giving of information confidentially to the Sheriff (18.27).
- 147.** Consideration should be given to empowering a Sheriff at his discretion to release documents to which access is statutorily restricted (18.28).
- 148.** No special provision should be made for extending the time for a proof on the grounds for referral (18.29-30).
- 149.** The child and the child's parent or guardian should be informed of any 'business meeting' of the Children's Hearing and their position presented orally or in writing at that meeting (18.31).
- 150.** The right of parents to be present throughout a Children's Hearing should give way to the interests of the child when the child's interests so require (18.32).
- 151.** In considering the whole question of the representation of children and of their parents before Children's Hearings attention should be paid to the necessity to avoid the introduction of any formal or adversarial character into the proceedings (18.33).
- 152.** Consideration should be given to certain matters of procedure and evidence in relation to cases involving children (18.34).
- 153.** Consideration should be given to the desirability or otherwise of introducing further restraints on press reporting of proceedings before Children's Hearings and in the Sheriff Court in children's cases (18.35-36).
- 154.** Consideration should also be given to clarifying the application of Section 58 of the 1968 Act (18.37).
- 155.** The press should be encouraged to enable a greater understanding by the public of the problems of child sexual abuse and of child protection work (18.38).
- (C) THE REPORTER
- 156.** In any informal discussion between the Social Work Department and the Reporter his independence of action must be recognised and respected (18.39-41).
- 157.** It is not recommended that Reporters should undertake an investigative function before matters are brought formally to their attention (18.43).
- 158.** No amendment of the 1968 Act is required to clarify the stage at which agencies should make known their anxieties to the Reporter or of the nature and scope of the material to be passed to him (18.44).
- 159.** The Reporter on being informed of the execution of a Child Protection Order should check the propriety of the continued detention of a child (18.45) but should also proceed with his statutory functions under Sections 38 and 39 in light of that information (18.46).
- 160.** In proceedings before the Sheriff the protagonist should be the Reporter and not the agency which removed the child in the first place (18.47).
- 161.** It should be clearly stated in all local guidelines in what form if any information requires to be given to the Reporter (18.48-49).
- 162.** Where a Reporter requires to consider the abandonment of a case which has been passed to the Sheriff for proof he should consult the Social Work Department before finally deciding to do so (18.50).
- 163.** The Reporter and the Procurator Fiscal should consult together to avoid conflict between the courses of action to be taken and they should also be invited to attend case conferences where appropriate (18.51).
- 164.** In all cases where a police constable has reasonable cause to believe that a child may be in need of compulsory measures of care he should be under a statutory duty to pass that information to the Reporter (18.52).
- 165.** An express statutory provision should be made enabling the Reporter to obtain from the police any information or articles held by them so that they may be available for the conduct of a proof under Section 42, subject to their being immediately required for purposes of criminal proceedings (18.53).
- 166.** No recommendation is made with regard to mediation between the police, the Reporter and the Social Work Department, nor in relation to the accountability of the profession of Reporter (18.54-55).
- 167.** Consideration should be given to the preparation of guidance for Reporters to secure greater uniformity across Scotland in their practice (18.56).

V. The Agencies and The Community (Chapter 19)

- (A) THE PROFESSION OF SOCIAL WORK
- 168.** ADSW should promote debate in Scotland through social work and allied agencies regarding the role and function of social work as a profession for the future so as best to serve the needs of the community (19.1-3).
- 169.** ADSW should consider the taking of appropriate initiatives to develop a centralised self-governing profession of social worker in Scotland (19.4).
- 170.** The whole area of work in child protection requires to be seen as a specialist area to be undertaken by practitioners with specialist skills and knowledge with adequate training and support (19.5-6).
- 171.** An increase in the facilities for training in social work is required and in particular for specialist training over the whole area of child care (19.7).
- 172.** A three-year qualification course for social workers should be introduced as soon as possible (19.8).
- 173.** It should be recognised that the area of child abuse in general and child sexual abuse in particular is an area of expertise into which not all members of the profession should necessarily enter (19.9).
- 174.** The need to increase facilities for post-qualifying training should be considered by ADSW (19.10).
- 175.** Local and central government should consider as a matter of priority the problems of resource and facilities involved in meeting that need (19.10).
- 176.** Basic qualifying training for social workers when extended should include substantial tuition on interviewing children (19.10-12).
- 177.** Planning should be started for developing more extensive post qualifying training to cover the complex subject of interviewing children in cases of suspected sexual abuse (19.10-12).
- 178.** Training in management skills should be extended (19.13).
- 179.** No Social Work Department should be without a sufficient proportion of its staff adequately skilled and knowledgeable in the identification, investigation and management of problems of child protection (19.14).
- 180.** Joint training should be undertaken between the social work profession and other agencies including in particular the police (19.15).
- 181.** Each region should develop joint training for interviewers of children where they are expected to undertake joint investigations of allegations of sexual abuse (19.16).
- 182.** Consideration should be given to the provision of training to all those outside the social work profession and the police who in one context or another may have an involvement in child protection work (19.17).
- 183.** Every encouragement and support should be given to the creation and development of specialist courses in social work in Scotland with the involvement of practitioners from all agencies (19.18-19).
- 184.** SWSG should be given every encouragement to initiate and promote further and fuller facilities for training including joint training between agencies, to recognise the resource implications and to secure a level of training which will produce standards of practice to be monitored by the new inspectorate (19.20).
- 185.** Local authorities should give serious consideration to securing that there is a sufficient number of staff with the appropriate qualifications to deal with the growing burden of work of suspected child abuse (19.21).
- (B) THE POLICE
- 186.** More extensive police training in work relating to matters of child care should be provided particularly in the work of interviewing children (19.22).
- 187.** It should be recognised that the experience of dealing with cases of suspected child sexual abuse involves as much stress for police officers as it does for social workers and requires a corresponding degree of support (19.23).
- (C) THE PUBLIC
- 188.** The press and the public should give social workers the support which they need to continue in the work which the public requires of them (19.24-25).

- 189.** Social workers should not be seen to be spies or detectives but should be recognised as agents for the provision of advice, guidance and assistance (19.26).
- 190.** Steps should be taken to improve the public understanding of and encourage debate about the work of child care and child protection in Scotland including the work of the Children's Hearings and the Reporter (19.27).
- 191.** Social workers should be readily accessible and available to the particular community which they serve and know and be known by it (19.28).
- 192.** The use of technical jargon which may obscure communication with clients should be avoided and in particular the use of the term 'disclosure work' should be discouraged (19.29-31).

- (D) THE LOCAL COMMUNITY
- 193.** Every opportunity should be taken to secure such advice and assistance for the nine children whose removal was the subject of this Inquiry to ensure that they are untroubled for the future so far as any effects of the Inquiry or the incidents which occasioned it are concerned (19.32).
- 194.** Orkney Islands Council should take active steps towards improving the relationship between themselves and in particular their Social Work Department and the local community (19.33).

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