
To: Education and Children Policy Board

On: 21 January 2016

Report by: Director of Children's Services

Heading: The Public Inquiry into Historical Child Abuse in Scotland and the National Confidential Forum

1. Summary

Public Inquiry into Historical Child Abuse in Scotland

- 1.1 On 17/12/14 Angela Constance, Cabinet Secretary for Education and Lifelong Learning, announced that a public Inquiry would be undertaken into the historic abuse of children under 18yrs under the Inquiries (Scotland) Act 2005 and that a consultation process would take place involving survivors and others in relation to the terms of reference and the appointment of a suitable Chair.
- 1.2 On 28/5/15 the draft terms of reference for the Inquiry were announced and Susan O'Brien QC was appointed as the Inquiry Chair.
- 1.3 A statutory inquiry is designed to get to the truth of the matter. To do this, it can compel public bodies or private organisations to produce particular documents. It also has the power to summon people who were involved, such as a person providing care, to give evidence.
- 1.4 The Inquiry will examine any instance where a child was abused "in care", including residential care; children's homes; secure care; borstals and young offenders institutions; and also those placed in foster care. "In care" will also carry a broader interpretation to include allegations affecting boarded out children; child migrant schemes; school hostels; and health care establishments providing long term care for children. Independent boarding schools are also included.
- 1.5 The scope of the Inquiry is 'within living memory'.
- 1.6 The Inquiry commenced on 1 October 2015. The Inquiry will be asked to report to Ministers within 4 years of the date of commencement.
- 1.7 In October 2015, The Inquiry Chair wrote to all organisations which are likely to be relevant to the Inquiry to request that immediate steps are taken to

preserve records which may be sought by the Inquiry at a later date. This will be subject to local planning.

- 1.8 Historic abuse was a key focus of the Renfrewshire Child Protection Committee annual conference held in September 2015

National Confidential Forum

- 1.9 In 2011, the Scottish Government announced its intention to establish a national acknowledgement forum to recognise the experiences of adults who were in institutional care as children. The intention was to build on the positive work of the “Time to be Heard” Pilot Forum which reported in 2011 and focussed on the experiences of adults who had been placed in Quarriers.
- 1.10 Following a consultation on the proposal in 2012, the National Confidential Forum (NCF) was set up in 2014 as part of the Victims and Witnesses (Scotland) Act 2014.
- 1.11 The NCF has been holding hearings since January 2015. People who spent time in institutional care as children have been invited to come forward and share their experiences, both good and bad. What people say at the NCF hearings will form an important record about children in care in Scotland in the past. The NCF will report annually.
- 1.12 Renfrewshire Children’s Services (social work) are undertaking a review of records and exploring options to publicise the work of the NCF to ensure that those eligible to participate are made aware of this.

2. Recommendations

- 2.1. Members are asked to note the contents of this report.
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3. Background

- 3.1 Scotland is one of only a few countries to develop and implement a dedicated support strategy for survivors of historic abuse in any setting. For 10 years Survivor Scotland has delivered services to many survivors.
- 3.2 In 2010, the Scottish Human Rights Commission was funded to develop a Human Rights framework as part of work to seek remedies for historical child abuse in Scotland. This is known as the InterAction Process. The InterAction process was completed in 2014 and an InterAction Plan was produced (Appendix 1). The Scottish Government has made a commitment to carry out its ‘InterAction’ Plan (the Plan).
- 3.3 The National Confidential Forum (NCF) forms part of the Plan’s acknowledgement measures and the Public Inquiry into Historical Child Abuse in Scotland forms part of the Plan’s accountability measures.

- 3.4 Other action taken by the Scottish Government in relation to the Plan includes:
- The setting up of a dedicated support fund for survivors of abuse placed in care by the state to enable survivors to identify their own personal goals and access the right support to achieve them. £13.5 million is to be allocated over the next five years to develop a dedicated in care support service.
 - An intention to lift the three-year time bar on civil action in cases of historical childhood abuse (from September 1964) with the production of a draft Bill by the end of this parliamentary session.
 - The exploration of an Apology Law currently the subject of a private members bill.

3.5 In September 2015, Professor Andrew Kendrick (Strathclyde University) addressed the Renfrewshire Child Protection Committee annual conference in respect of the Historic Abuse Inquiry. Professor Kendrick is the chair of the SHRC InterAction on Historic Abuse Review group which Renfrewshire is represented on. This was followed at the conference by a workshop on historical abuse facilitated by CELSIS. 250 professionals from across Renfrewshire attended the conference.

Public Inquiry into Historical Child Abuse in Scotland

- 3.6 On 17/12/14 Angela Constance, Cabinet Secretary for Education and Lifelong Learning, announced that a public Inquiry would be undertaken into the historic abuse of children and that a consultation process would take place involving survivors and others in relation to the terms of reference and the appointment of a suitable Chair.
- 3.7 The Inquiry is to be held under the Inquiries Act 2005 (“the Act”) and is a Scottish Inquiry in terms of section 1(2)(b) and section 28 of the Act. Panel members, along with the Chair, will form the Inquiry Panel in terms of the Act. The setting-up date for the Inquiry will be no later than 1 October 2015. The Inquiry can compel public bodies or private organisations to produce particular documents. It also has the power to summon people who were involved, such as a person providing care, to give evidence. People who make statements to a statutory inquiry are protected from some court actions, such as defamation. An inquiry is not designed to rule on anyone’s civil or criminal liability and has no power to do this. It may be that liability can be inferred from facts that come out of the inquiry, or from recommendations it makes.
- 3.8 On 28/5/15 the draft terms of reference for the Inquiry were announced and Susan O’Brien QC was appointed as the Inquiry Chair. Ms O’Brien is an experienced advocate in civil litigation, including issues pertinent to the Inquiry, and has a knowledge and expertise in human rights. She also chaired the Caleb Ness Inquiry in Edinburgh in 2003. Susan O’Brien QC took up her post as Chair on 1/7/15.
- 3.9 The purpose of the Inquiry is to;
- To investigate the nature and extent of abuse of children whilst in care in Scotland, during the relevant time frame.
 - To consider the extent to which institutions and bodies with legal responsibility for the care of children failed in their duty to protect children in care in Scotland (or children whose care was arranged in

Scotland) from abuse, and in particular to identify any systemic failures in fulfilling that duty.

- To create a national public record and commentary on abuse of children in care in Scotland during the relevant time frame.
- To examine how abuse affected and still affects these victims in the long term, and how in turn it affects their families.
- The Inquiry is to cover that period which is within living memory of any person who suffered such abuse, up until such date as the Chair may determine, and in any event not beyond 17 December 2014.
- To consider the extent to which failures by state or non-state institutions (including the courts) to protect children in care in Scotland from abuse have been addressed by changes to practice, policy or legislation, up until such date as the Chair may determine.
- To consider whether further changes in practice, policy or legislation are necessary in order to protect children in care in Scotland from such abuse in future.
- Within 4 years (or such other period as Ministers may provide) of the date of its establishment, to report to the Scottish Ministers on the above matters, and to make recommendations.

- 3.10 For the purpose of this Inquiry, “Children in Care” includes children under 18yrs in institutional residential care such as children’s homes (including residential care provided by faith based groups); secure care units including List D schools; Borstals; Young Offenders’ Institutions; places provided for Boarded Out children in the Highlands and Islands; state, private and independent Boarding Schools, including state funded school hostels; healthcare establishments providing long term care; and any similar establishments intended to provide children with long term residential care. The term also includes children in foster care.
- 3.11 The term does not include: children living with their natural families; children living with members of their natural families, children living with adoptive families, children using sports and leisure clubs or attending faith based organisations on a day to day basis; hospitals and similar treatment centres attended on a short term basis; nursery and day-care; short term respite care for vulnerable children; schools, whether public or private, which did not have boarding facilities; police cells and similar holding centres which were intended to provide care temporarily or for the short term; or 16 and 17 year old children in the armed forces and accommodated by the relevant service.
- 3.12 “Abuse” for the purpose of this Inquiry is to be taken to mean primarily physical abuse and sexual abuse, with associated psychological and emotional abuse. The Inquiry will be entitled to consider other forms of abuse at its discretion, including medical experimentation, spiritual abuse, unacceptable practices (such as deprivation of contact with siblings) and neglect, but these matters do not require to be examined individually or in isolation.
- 3.13 Glenn Houston and Professor Michael Lamb have been appointed as Panel Members to support Susan O’Brien QC, Chair of the Historical Child Abuse Inquiry.
- 3.14 Glen Houston is the Chief Executive of the Regulation and Quality Improvement Authority (RQIA), Northern Ireland’s independent health and

social care regulator. He has over 30 years' experience working in health and social care services in Northern Ireland.

- 3.15 Michael E. Lamb is Professor of Psychology at the University of Cambridge. He previously headed a research unit at the US National Institute of Child Health and Human Development in Bethesda, a suburb of Washington DC, for 17 years. He was consulted by the Carloway Commission during its inquiry regarding the ways in which children's testimony might best be obtained and provided in Scottish legal proceedings.
- 3.16 The Inquiry is in the process of drafting Protocols for handling the documents it will recover and retain for its work. The Inquiry Chair has recently written to all organisations which she believed are likely to be relevant to the Inquiry to ask that they take immediate steps to preserve records which may be sought by the Inquiry at a later date. This letter has to date been received by the statutory organisations within Renfrewshire. Discussion are taking place locally to identify local implications and ensure plans are in place to manage these.

National Confidential Forum

- 3.17 In 2011, the Scottish Government announced its intention to establish a national acknowledgement forum, building on the positive work of the Time to be Heard Pilot Forum. The purpose of this forum was to test the appropriateness and effectiveness of a confidential, acknowledgement forum in giving former residents of residential schools and children's homes the opportunity to recount their experiences of being in care, particularly experiences of abuse, to an independent and non-judgemental panel. The evaluation of the pilot showed the clear benefits to participants of acknowledgement and the value of such a forum in informing future policy and practice as regards looked after children.
- 3.18 The Scottish Government launched a consultation on the proposal to establish a National Confidential Forum on 23 July 2012.
- 3.19 The National Confidential Forum (NCF) has been set up as part of the Victims and Witnesses (Scotland) Act 2014. The Scottish Government has legislated for and funded the NCF to ensure recognition of the importance of the experiences of adults who were in institutional care as children. However, the NCF operates independently from the government.
- 3.20 The NCF is part of the Survivor Scotland Strategy. The Survivor Scotland Strategy aims to make sure that help and advice is there for anyone who is an adult survivor-that is anyone who was harmed as a child and is now over 16.
- 3.21 What people say at the NCF hearings will form an important record about children in care in Scotland in the past. The Head of the NCF will write a report each year, so that everyone can find out what has happened over that year. Part of the report each year will cover how the NCF was run to ensure it provides a safe environment for people to share their experiences.
- 3.22 Individuals can share their experiences with the NCF in a way that is best for them. These can be shared at a hearing, face to face with two NCF members,

or by written or recorded account. Those attending the NCF can bring up to two people for support at their hearing.

- 3.23 The names of those who take part will not be mentioned in any reports made by the NCF. Sharing experiences can be therapeutic and importantly, the information given by those who participate will contribute to making positive changes current and future to child care in Scotland. By telling the NCF what it was like to be a child in care in Scotland those who take part can help to build a picture of the legacy of institutional child care in Scotland. Anyone who spent time in institutional care as a child in Scotland can come to the NCF. Individuals applying to the Forum must be over 16 years old.
- 3.24 Individuals can apply to the NCF by completing an application form online, by post or by phone. The NCF has set up an independent advice and guidance line that individuals can contact if they want to discuss what coming to the NCF may mean for them. This advice and guidance line is run by trained counsellors and can be used at any time throughout the process, even after they have attended the NCF.
- 3.25 The NCF support staff recently wrote to local authorities to request assistance with highlighting the NCF to adults formerly in care as children. Renfrewshire Children's Services are currently reviewing records to ensure information is publicised and shared appropriately with those who may be eligible to participate.

Implications of this report

1. Financial Implications

None.

2. HR and Organisational Development Implications

None.

3. Community Plan/Council Plan Implications

Children and Young People	- The work of the national Inquiry is intended to identify learning for services. The Inquiry may recommend further changes in practice, policy or legislation.
Community Care, Health and Well-being	- None
Empowering our Communities	- None
Greener	- None
Jobs and the Economy	- None
Safer and Stronger	- None

4. Legal Implications

None.

5. Property/Assets Implications

None.

6. Information Technology Implications

None.

7. Equality and Human Rights Implications

- (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because it is for noting only. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

8. Health and Safety Implications

None.

9. Procurement Implications

None.

10. Risk Implications

None.

11. Privacy Impact

None.

List of Background Papers

None

Children's Services

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