

ABUSE OF CHILDREN & YOUNG PEOPLE IN RESIDENTIAL CARE

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This briefing provides an overview of the relevant inquiries into the abuse of children in residential care and some associated issues. Its purpose is to provide information for the plenary debate to be held on Wednesday 1 December 2004 as a result of the Public Petitions Committee motion S2M-1988:

Michael McMahon on behalf of the Public Petitions Committee: Public Petition PE535 – that the Parliament notes public petition PE535 calling for the Scottish Parliament to urge the Scottish Executive to (a) conduct an inquiry into past institutional child abuse, in particular for those children who were in the care of the state under the supervision of religious orders and (b) make an unreserved apology for the said state bodies and to urge the religious orders to apologise unconditionally.

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INTRODUCTION

The Public Petitions Committee (PPC) for the first time has lodged a motion requesting a plenary debate based on a petition PE535 received in 2002. The PPC has not at this stage taken a view in relation to the issues arising from PE535 but, having taken oral evidence from the Minister for Education & Young People, it has agreed that the petition merits a full debate by the Parliament.

This paper gives an overview of the passage of the petition through Parliament and provides information regarding abuse of children in residential care.

BACKGROUND

20 August 2002 Petition PE535 is lodged by Mr Christopher G. Daly. On **8 October 2002** the PPC consider the petition and agree to write to the Scottish Executive and the Cross-Party Group on Childhood Sexual Abuse, seeking their comments on the issues raised in the petition (Scottish Parliament Public Petitions Committee 2002).

17 February 2003 the Scottish Executive writes to the PPC outlining some of the safeguards, regulation and inspection improvements that have been introduced to protect vulnerable children. It also states the Executive's position in relation to the issues raised in the petition (for the full text see Annex 1).

“Any case of child abuse is unacceptable. Abuse of vulnerable children in institutions which should provide them with safety is particularly deplorable.

The Scottish Executive is considering whether an inquiry of the sort requested, or some other forum, should be established to look into cases of abuse in institutions in Scotland, having regard to cases that have come to light in recent years, and what other role the Executive might take in addressing these cases. The Scottish Executive will also consider the experiences of institutional child abuse in other countries.”

At its meeting on **25 March 2003** the committee acknowledges “the Executive response is positive to the extent that it indicates a willingness to consider some form of inquiry”. However the committee decide to write to the Executive again requesting further details including its timetable for addressing the issues. This response is requested by mid June 2003 to take into account the forthcoming Scottish Parliament elections (Scottish Parliament Public Petitions Committee 2003).

On **12 May 2004** the PPC expresses dissatisfaction at the lack of a response from the Scottish Executive. “Despite a number of reminders” from the committee, no response had been received from the Scottish Executive (Scottish Parliament Public Petitions Committee 2004a). The Committee agrees to write to the First Minister regarding the time that had elapsed without a response. They also agree to write to the Minister for Education and Young People seeking an urgent response to the substance of the petition.

On **29 June 2004** the PPC invites the Minister for Education & Young People to give evidence (Scottish Parliament Public Petitions Committee 2004b). A letter is received from the Minister for Education & Young People in **June 2004**. This states that the Executive have decided against an inquiry (further information below) (Scottish Executive 2004).

At the PPC meeting on **29 September 2004** the Minister for Education & Young People gives evidence to Committee. In his opening statement committee Peter Peacock says;

“Before I address the substance of the petition, I will deal with the lengthy delay in the Executive responding to the committee. I will make very clear that I believe that the committee was entirely justified in complaining about the tardiness that the Executive displayed in responding to its requests for information. There is no reasonable excuse or justification for the delays, and I do not seek to proffer any. The delays should simply not have occurred and I very much regret that they did. We have taken actions within the department to ensure that such delays never happen again.”

To which [Michael McMahon](#) Convener of the PPC responds:

“I say that I appreciate your full and frank apology for the delay in responding. I assure you that we will watch to see that responses are more timeous in future and we will let you know if we are disappointed”

(Scottish Parliament Public Petitions Committee 2004c)

CONCLUSION OF COMMITTEE

In his letter of June 2004 to the Convener of the PPC, the Minister for Children & Young People states:

“We then considered whether an Inquiry would prevent future abuse, help meet the needs of survivors, or be in the wider public interest. On balance, after very careful consideration, we decided that it would not.” (Peacock 2004a)

During his evidence to the committee the Minister stated;

“It falls to this generation of ministers to acknowledge that, where wrongs occurred in the past, they were unacceptable. We share with others profound sorrow for the damage that has been experienced by individuals. Abuse will always be unacceptable and those who perpetrate abuse will be subject to the full rigour of the law. We are determined to ensure that inspection, regulation and standards are in place to prevent, detect and deal with abuse.”

Members then agreed to make a bid to the Conveners’ Group that a Committee half day be allocated to the PPC to allow a full parliamentary debate on PE535. This was subsequently agreed by the Conveners’ Group (Scottish Parliament Public Petitions Committee 2004c).

ABUSE OF CHILDREN IN RESIDENTIAL CHILD CARE

Over the past 15 years there has been a public realisation and acknowledgement of abuse that occurred to children in residential care. Much of the knowledge of abuse of children in care has come from Inquiries held as a result of allegations of abuse in specific establishments. These provide detailed information and analysis of what went on and went wrong in the institutions. (Corby 2000). Whilst the Inquiries are concerned with abuse that had happened during the 1970s and 1980s, other specific cases relate to incidents in prior decades.

DEFINITIONS

Some research on institutional abuse of children makes the distinction “between individual acts by abusers within institutions, abusive regimes and examples of poor or bad practice in institutions...” (NSPCC 2003) The NSPCC identifies three discrete forms:

“1. Overt or direct abuse, consisting of any sexual, physical or emotional abuse of a child by a worker, very similar to familial abuse.

2. Programme abuse consisting of an institution’s regime or treatment programme which, although accepted by staff, to an external observer would be viewed as abusive.

3. Abuse which is perpetrated not by a single person or programme, but by the immense and complicated child care system, stretched beyond its limits and incapable of guaranteeing safety to all children in care.”

Others include further definitions including:

“Abuse is linked to issues of neglect in situations where children are not contained within the residential centre, and become involved in unacceptable behaviours such as offending, drug-taking and prostitution” (Corby 2000)

INCIDENCE OF ABUSE IN RESIDENTIAL CARE

There is little research on the extent of abuse of children in residential care in the UK. Studies in the US have found an “average of 39 reports of maltreatment per 1000 children” (NSPCC 2003). However it is not possible to directly transfer these figures to the UK given the differences in the size and nature of the two systems.

Information available suggests that, in the UK, rates of abuse of children are higher in residential facilities than at home. Inquiries and other investigations have shown that the abuse is often unreported at the time or that allegations have not been passed on. The majority of victims are adolescents, often isolated and their complaints have often been ignored because of “negative assumptions that were made about their character, behaviour or truthfulness” (NSPCC 2003).

FACTORS ASSOCIATED WITH ABUSE

The research and information resulting from inquiries has identified factors associated with institutional abuse but specific causal factors have not been identified. The factors include:

- Gender – the majority of those who abuse are male
- Supervision – there is often insufficient and ineffective supervision of child care staff
- Status of the facility – lack of training, isolation of staff and lack of participation of staff in decisions
- Staffing patterns – “vulnerable times” seem to be when staffing is low eg in the early morning or evening.
- Management style – the heads of residential homes are the single influence on the culture of an institution. This can mean producing openness in the institution and positive attitudes to children. However a feature of inquiries into abuse has revealed authoritarian leadership style.
- Organisational factors – lack of clear objectives, lack of or inadequate complaints procedures and unsuitable placements. (NSPCC 2003)

MAJOR INQUIRIES

“The 1990s saw a massive growth in concern about the abuse of children living away from home, particularly in regard to children in the care of the local authority. Between 1990 and 1996 there have been at least ten public enquiries into abuse in such settings, outstripping the number of inquiries of abuse of children in their own homes.” (Corby 2000 p52)

This section of paper gives an overview of some of the highest profile inquiries into child abuse in residential care in the UK. These include "Pindown" in Staffordshire, Leicestershire, Edinburgh and the Waterhouse Inquiry in Wales.

First the paper considers the reasons behind the Irish Government's decision to set-up a Commission to inquire into abuse of children in residential care, its functions and work. This is particularly relevant to the subject of petition PE535.

THE COMMISSION TO INQUIRE INTO CHILD ABUSE

[The Commission to Inquire into Child Abuse](#) was established in Ireland on an administrative, non-statutory basis in 1999 and became statutory the following year after the passing of the necessary legislation.

BACKGROUND TO COMMISSION

In 1999, the Taoiseach gave the following statement:

"on behalf of the State and all citizens of the State, the Government wishes to make a sincere and long overdue apology to the victims of childhood abuse, for our collective failure to intervene to detect their pain, to come to their rescue".

When questioned about the "political thinking behind the making of that apology" the Taoiseach responded that for a number of years abuse in institutions had been coming to the public fore. This was a result of campaigning by the victims, the media, litigation and Freedom of Information.

The Taoiseach stated that he felt that in "trying to assist these people back who had been badly dealt with by the State, in our view, the hurt was not going to be removed unless you said sorry". That decision was made after he met with a large group of the individuals and "could see the level of hurt...I was the political leader that could deliver...it was on that political basis that we decided to say sorry..." He said he discussed it with Cabinet colleagues who agreed the only way to say sorry, was to do so publicly and "wholeheartedly".

The Taoiseach said the meaning behind the apology was that:

"the State has let you down, the State should have done better. There were reasons why it didn't, but they weren't, in our view, justifiable...the test of a true democracy is to be found in how it treats its weakest and its most vulnerable members. Modern Ireland has many brave but vulnerable survivors of childhood abuse whose young lives were shattered by terrible wrongs that were perpetrated upon them. The abuse of any child is a source of deep personal hurt and a gross violation of trust. The reality is that much of the abuse that occurred in the past was directed towards children who were pupils in residential institutions that were regulated and supervised by the State."

After the apology, the Taoiseach said it was accepted that a forum was needed at which people could tell their story. The Commission was set up "ad hoc, first of all", then statutorily in spring 2000. The Taoiseach said he accepted that some form of redress would come into play eventually and didn't mind when, but felt it important to establish the Commission first.

The redress/compensation scheme was established later, via the "Residential Institutions Redress Board Act 2002". This established a Board that currently operates in the State and deals with compensation for victims of institutional abuse. This Board is a separate statutory body to that of the Commission. Nearly 5,000 compensation claims have been lodged to the Residential Institutions Redress Board by former inmates, while €141 million has already been paid out to 1,900 victims.

The Taoiseach also pointed out that the victims had told him of the difficulties they had encountered in "protracted legal cases, of having to give evidence and be cross-examined, to go through a horrendous adversarial process". The Government motivation was to apologise on behalf of the State, to set up a Commission where people could tell their story and, obviously, then to have a redress system that just wasn't more torture".

(Response from the Commission 2004)

FUNCTIONS OF THE COMMISSION

The Commission to Inquire into Child Abuse was originally chaired by the Honourable Ms. Justice Mary Laffoy High Court Judge. The Statutory Commission was established with three primary functions:

- to listen to victims of childhood abuse who want to recount their experiences to a sympathetic forum;
- to fully investigate all allegations of abuse made to it, except where the victim does not wish for an investigation
- to publish a report on its findings to the general public.

There is a [Confidential Committee](#), where victims of abuse not wishing to be involved in an investigative procedure can recount their experience on an entirely confidential basis. No cross-examination of witnesses occurs in this forum and no respondents are called to give evidence.

The [Investigation Committee](#) "will facilitate victims who wish to both recount their experiences and to have allegations of abuse fully inquired into".

There has also been a counselling service for survivors established by the Irish Department of Health and Children.

Work of the Commission

A number of issues have caused difficulties for the Commission in proceeding with its core work. These include legal and procedural issues that had to be addressed prior to the Investigative Committee being able to hold its evidential hearings. A particular issue was whether those accused of abuse could be named publicly.

A major issue has been addressing the high volume of work and being able to complete it in a reasonable time. In 2003, it was reported (Irish Times 2003) that:

"By the time the deadline set by the Commission for making applications to the Investigation Committee had passed, 1,957 people had applied to have their allegations of abuse inquired into by the Investigation Committee... To date the Committee has heard 40 cases. The Commission indicated in November 2002 that, based on its staffing levels at that stage, and even assuming some level of attrition in the number of applications to be heard, it could take 7 to 10 years to complete the individual hearings aspect of its work."

The Commission requested further resources from the Government to enable it to deal with more investigative cases. The Government set up a review of the Commission and their report makes recommendations on how the work could be completed sooner. After this, the Chair of the Commission, Judge Laffoy, resigned (Irish Times 2003):

"The principal reason stated by Judge Laffoy for her resignation is because in her view the Commission has, in effect, been rendered powerless. The Government does not agree with this view. The Commission to Inquire into Child Abuse Act remains fully in force."

Some survivors' groups have expressed concerns that this will mean some people are not given the opportunity to have their testimony heard. They have also complained that the Commission does not "name and shame" individuals and institutions alleged to have abused children (Sunday Business Post 2004).

With its new chair, Mr Justice Sean Ryan, the Commission's work continues and is currently due to end in May 2008. During 2004, a number of public hearings of the Investigation Committee have taken place and private hearings have re-commenced.

In a number of public statements, Justice Ryan has pointed out that, for various reasons, the Investigation Committee will not be "naming and shaming" individuals accused of abuse of children in residential care. However, reports on whether abuse occurred in a named institution will be published. Further, the findings of the Confidential Committee will be published.

EDINBURGH INQUIRY

[The Edinburgh Inquiry into Abuse and Protection of Children in Care](#) reported in January 1999. The Inquiry was established by Edinburgh Council following the convictions of two men in December 1997 "for serious abuse of children in care ... between 1973 and 1987".

The remit included determining if allegations had been made before the police investigation, identifying the reasons these were or were not acted upon and the "lessons that may be learned". Secondly the inquiry was to consider the safeguards now in place and their effectiveness. The inquiry was then to make recommendations "with a view to assuring the Social Work Committee and the public that every measure is in place to minimise child abuse".

The findings in part 1 of the inquiry report include:

- Isolation – whilst there were links to the outside the children experienced the homes as "self-contained".
- Picking up signs – children's behaviour was not recognised as an indication of abuse
- Lack of awareness – little recognition at that time of adult sexual abuse of children and practice meant allegations were not dealt with adequately
- Responsibility and accountability – staff operated autonomously and information was not always passed onto superiors the senior member of staff was seen to be unaccountable to anyone.

The inquiry team recognised that as children and adults, some of those who had been abused had made attempts to disclose what was happening and that it was important to some of them that this was publicly acknowledged. The conclusions to part 1 of the remit state:

"It is clear ... that over the years, many of the former residents of Clerwood, Glenallan and Dean House have tried to tell what happened to them. Sometimes they have done so very explicitly, at other times more tentatively ... In later life, many have been consciously aware of the long lasting impact upon them of their childhood experiences. Some have also been brought to the position of making reports by their adults concerns for their own children, or for other children who might find themselves in a similarly vulnerable situation. Many experienced a need for justice to be done; for the tables to be very publicly turned on those who exerted, and abused, such power over them."

"We cannot claim that the reports and behaviours we have set out ... tell the complete story ... However it seems to us likely that some at least of those former residents who did not accept our invitation to speak to us have other

stories to tell. We believe it would have been further abuse to have compelled them to speak with us, and that nothing would have been gained by doing so.”

The Inquiry team made 135 specific recommendations. They believed these would be applicable more widely than the City of Edinburgh Council. In response to the requirement to ensure “that every measure is in place to minimise child abuse, the inquiry team stated:

“It would be impossible to set up a system so tight that the possibility of abuse was altogether excluded. Any attempt to achieve this unattainable aim would result in disappointment, recrimination, a defensive attitude by staff which would be unhelpful for children...”

That said, this does not absolve us from the responsibility of making sure that children are safe as they can be. A two-pronged approach is required. The child care system must be so organised as to provide the safest possible environment for children. In particular, staff recruitment and supervision must be rigorous and consistent. Children and young people must be helped to identify and articulate concerns with the assurance that they will be taken seriously and progressed sensitively.” (Marshall, Jamieson and Finlayson 1999)

THE STAFFORDSHIRE PINDOWN EXPERIENCE

The existence of the regime that eventually became known as “Pindown” first became known to the outside world in 1989, when an adolescent girl was found to have been confined to a barely furnished room for long periods; required to wear night clothes during the day; deprived of contact, education and sensory stimulus; and prevented from communicating with other children or going out. The architect of what was claimed to be “behaviour modification” was Tony Latham, a social services area officer. It eventually emerged that 132 children aged from 9 to 17 had been subjected to Pindown between 1983 and 1989.

In their Inquiry report Levy and Kahan set out the social services context in Staffordshire within which Pindown had operated. Expenditure on children’s services was low, management was “remote, uninterested and incompetent”. Staffing levels were poor: it was reported that homes would sometimes be left under the control of a young unqualified (female) member of staff. Training was inadequate and there was said to be an introspective culture (Berridge and Brodie 1996).

LEICESTERSHIRE – FRANK BECK

Frank Beck had been an officer in charge in children’s homes in Leicestershire between 1973 and 1986. He was convicted in 1991 on 17 counts of attempted rape, buggery and other forms of sexual and physical assault involving children. As a consequence of the case Leicestershire Council commissioned an inquiry. The main findings included:

- Staff were reported to have “been afraid” of Beck
 - Staff were inexperienced and training was discouraged
 - Management of the care branch of Leicestershire Social Services Department was found to be ineffective
- (Berridge and Brodie 1996).

THE WATERHOUSE INQUIRY

In 1996 the Welsh Secretary ordered an inquiry into the abuse of children in care after 1974 in the Welsh county council areas of Clwyd and Gwynedd. This was a result of an “outcry” after

councillors decided not to publish the findings of a smaller inquiry following legal advice that it could prompt court actions and compensation claims.

The three-year tribunal of inquiry, chaired by Sir Ronald Waterhouse, registered 259 complaints and testimony of 129 people, and concluded that widespread sexual abuse of boys occurred in children's residential establishments between 1974 and 1990. Physical and sexual abuse of young residents in the neighbouring county of Gwynedd also occurred (Guardian 2000).

Lost in Care (Waterhouse 2000), the report by Sir Ronald Waterhouse made 72 recommendations, principally:

- *An independent children's commissioner for Wales should be appointed to oversee complaints and whistleblowing procedures*
- *Every social services authority should be required to appoint a complaints officer to interview children alleging abuse*
- *An independent regulatory body should be set up to inspect all children's homes, foster homes and other child services*
- *Social workers should be required to visit every child in their charge and in care at least every eight weeks*
- *Local authorities should have clear procedures to encourage staff whistleblowing*

The revelations about children in residential care have not been confined to the UK and Ireland. Abuse of children in care stretching back decades has entered the public domain in Canada, USA and Australia to cite a few examples.

GOVERNMENT ACTION IN SCOTLAND

This “flurry of concern” about abuse of children in residential child care has not gone unnoticed in Scotland. The Government and others have responded through a series of reviews, policy and legislation (Corby 2000).

NUMBERS OF CHILDREN

The Inquiries into children abused in residential care generally relate to incidents which took place in the 1970s and 1980s. Since then there has been a change in the numbers of children placed in this type of accommodation. In 1976 there were 6,336 children in residential care. By 2004 there were 1,567 - a stable number since 2000.

The reduction in the number of children in residential care was primarily the result of developments in services for vulnerable children. In Scotland the then Scottish Office Social Work Services Inspectorate reviewed residential child care in the early 1990s. The result was the report “‘Another Kind of Home: A Review of Residential Child Care’ (‘the Skinner report’) (Scottish Office 1992). In this report, it is stated that:

“The number of young people and children resident in homes and schools run by, or registered with, social work departments fell from 6,336 in 1976 to 2,161 in 1990...during this period there was a general reduction in the size of the population aged 0 – 17, but the reduction in the number of children in residential care was greater than could have been predicted from population changes alone. It reflects the impact of policy and practice changes including the increased level of alternative support for young people and children, through, for

instance, family centres, intermediate treatment projects and fostering and community caring schemes.”

The remit for the review included examining provision and quality of residential child care and specifically looked at training, control, children’s rights and sanctions and to make recommendations for maintaining a service of high quality. The report has 66 recommendations. These included improving the pay, conditions and training for staff in this field. They also recommended improving the rights, responsibilities and experience of young people and their parents.

DEVELOPMENTS IN CARING FOR CHILDREN

Subsequent to the Skinner report a number of other measures have been introduced. This has taken place in the context of greater recognition of children’s rights, shown by the UK Government’s ratification of the UN Convention on the Rights of the Child in 1991 and, in the last few years, the appointment of Commissioners for Children and Young People in Wales, Northern Ireland and Scotland.

The Children (Scotland) Act 1995 became the new foundation of children’s legislation in Scotland. “Rights for children are scattered through the Act, with the right of children to have their views considered in at least eight sections” (Tisdall, 1996).

More specifically in relation to residential care, in his letter to the Public Petitions Committee the Minister for Education & Young People outlined the “steps to improve the protection afforded to these vulnerable children” (Peacock 2004b). The full text is contained in Annex 2 but includes:

- HM Inspectorate of Education inspections of boarding schools since 1995
- Regulation and inspection of care homes for children by the Scottish Commission for the Regulation of Care since April 2002
- The implementation of the Protection of Children (Scotland) Act 2003 improving safeguards by identifying and making known to employers people considered unsuitable to work with children (see [Curtis 2002](#))
- A Child Protection Reform Programme to address the issues raised in the Report of the Child Protection Audit and Review - Its Everyone’s Job to Make Sure I’m Alright. ([Berry 2004](#))
- Protecting Children and Young People: Framework for Standards
- Protecting Children and Young People – the Charter
- Funding of Who Cares? Scotland to provide independent advocacy for young people in care

The Minister also stated that the Executive wanted to assist survivors of past abuse. The Minister for Children & Young People has also met with the petitioner and a representative of In Care Abuse Survivors Group (INCAS). One of the purposes of this has been “*to explore with INCAS what further action the Executive might take to meet the needs of survivors*” (Peacock 2004b).

SITUATION IN ENGLAND AND WALES

England and Wales have experienced similar processes. In 1991 Sir William Utting published “Children in the Public Care: A Review of Residential Childcare” (Department of Health 1991). This was commissioned by the then Secretary of State for Health following the “Pindown” inquiry. Choosing with Care (Department of Health 1992) was published in response to events in Leicestershire. It is mainly concerned with selection and recruitment of staff in residential

child care. In the wake of the North Wales Inquiry the UK Government commissioned “People Like Us: the Report of the Review of Safeguards for Children Living Away from Home” (Department of Health 1997).

In November 2004 the Joseph Rowntree Foundation published a study they had [funded](#) (Stuart and Baines 2004). It considered what had happened in practice since the publication of “People Like Us”.

The main conclusions found

“Legislation, policy and procedures have been much improved but effective implementation has been more problematic.”

The main groups of children living away from home do now seem better safeguarded but worries remain for some of the most vulnerable groups – those in private foster care, prisons and some health settings.

In dealing with sexual abuse, there has been some progress in:

increasing awareness of the risks: but gaps remain in the information available to the public, parents, carers and staff and children themselves on how offenders operate;

establishing procedures for preventing abusers from working with children: but these are not implemented consistently and, with most abusers unconvinced, there is a danger of relying too much on criminal checks with little use of ‘soft’ information.

establishing appropriate arrangements for abused children giving evidence in court: but implementation is slow and under resourced

In dealing with sexual abuse, there has been no or little progress in:

bringing abusers to justice and securing convictions;

providing adequate help and treatment for abused children;

providing adequate treatment and supervision arrangements for abusers, especially young abusers and women; opportunities to reduce offending are being lost.

The regulation and inspection of schools with boarding provision have been transformed since 1997, but it is too early to judge whether the changes are improving safeguards.”

ANNEX 1 MEMORANDUM

RESPONSE FROM THE SCOTTISH EXECUTIVE TO THE SCOTTISH PARLIAMENT PUBLIC PETITIONS COMMITTEE ON THE PETITION SUBMITTED BY MR CHRISTOPHER DALY.

PE535 Petition by Mr Christopher Daly calls for the Scottish Parliament to urge the Scottish Executive to commence an inquiry into past institutional child abuse. The petition makes particular reference to children who were resident in an institution in respect of which State bodies had regulatory or supervisory functions, in particular those in the care of the State under the supervision of religious orders.

The petition requests that the Scottish Parliament makes an unreserved apology for the State bodies and that the Scottish Parliament urges the religious orders to apologise unconditionally.

In particular the petition asks the Scottish Parliament and Scottish Executive:

- To afford victims of institutional child abuse in Scotland an opportunity to tell of the abuse they suffered to a sympathetic experienced forum.
- To establish a picture of causes, nature and extent of physical, sexual and emotional abuse of children in institutions from around 1940 or before until the present, including the antecedents, circumstances, factors and context of such abuse, the perspectives of the victims and motives and perspectives of the persons responsible for committing the abuse.
- To compile a report and make public, on the activities and findings of the inquiry, containing such recommendations as the inquiry considers appropriate including actions which should be taken to address the continuing effects of the abuse examined by the inquiry.
- To appoint specialist advisers [to] supply information or elucidate areas of complexity, to conduct investigations, hold hearings, both private and public and conduct or commission research for the purpose of carrying out these terms of reference.

Scottish Executive Response

1. Any case of child abuse is unacceptable. Abuse of vulnerable children in institutions which should provide them with safety is particularly deplorable.
2. The Scottish Executive is considering whether an inquiry of the sort requested, or some other forum, should be established to look into cases of abuse in institutions in Scotland, having regard to cases that have come to light in recent years, and what other role the Executive might take in addressing these cases. The Scottish Executive will also consider the experiences of institutional child abuse in other countries.
3. The Scottish Executive is committed to ensuring that appropriate systems are in place to protect vulnerable children from abuse. Much has been done to improve child protection in recent years and further measures are planned including:
 - The report of the inter-agency audit and review of child protection in Scotland - *It's everyone's job to make sure I'm alright* - was published in November last year.

- From April 2002, the Scottish Commission for the Regulation of Care has regulated and inspected care homes for children and is working collaboratively with HM Inspectorate of Education to regulate and inspect school care accommodation services. These inspections of care homes and residential schools are carried out against published national care standards.
- Since 1995, HM Inspectorate of Education has carried out inspections of boarding schools and hostels to evaluate and report on the quality of care and welfare for children. The Social Work Services Inspectorate with HM Inspectorate of Education inspect secure care establishments.
- Many of the recommendations of the review of safeguards in place to protect children in residential care from abuse (published in 1998) have now been implemented.
- Funding has been provided to groups providing advocacy services to young people in residential care so their voices are heard
- The Protection of Children (Scotland) Bill provides for a list of persons unsuitable to work with children in either paid or unpaid employment.
- The Executive has welcomed the proposed establishment of a Commissioner for Children and Young People who could promote and safeguard the rights of children and young people.

Scottish Executive Education Department
February 2002

ANNEX 2

LETTER FROM THE MINISTER FOR EDUCATION & YOUNG PEOPLE TO THE CONVENER OF THE PUBLIC PETITIONS COMMITTEE

Thank you for your letter of 19 May regarding petition PE535 from Mr Christopher Daly. I am also replying on behalf of the First Minister to your letter to him of 17 May. The First Minister and I apologise for what has clearly been an unacceptable delay in providing a substantive reply to your original request for information. I know you will appreciate this is a difficult and complex subject and we have been examining the way ahead very carefully. I hope this letter addresses all of your concerns. Please do not hesitate to contact me again if you wish further information

Recent criminal convictions show that abuse took place in residential establishments in Scotland. Any case of child abuse is unacceptable. Abuse of vulnerable children in institutions which should provide them with safety is particularly deplorable.

In deciding whether to hold an Inquiry into allegations of historic abuse in residential children's homes, we first considered what we were already doing to:

- Minimise the risks to children currently living in these homes
- Provide high quality support to adult survivors of past abuse
- Ensure survivors have full access to their legal rights and remedies

We then considered whether an Inquiry would prevent future abuse, help meet the needs of survivors, or be in the wider public interest. On balance, after very careful consideration, we decided that it would not. Our reasoning is as follows:

Minimising the risk of abuse to children and young people currently in residential establishments in Scotland. Following inquiries and reports into residential establishments, we have taken steps to improve the protection afforded to these vulnerable children. Since 1995, HM Inspectorate of Education has carried out regular inspections of boarding schools and hostels. From April 2002 the Scottish Commission for the Regulation of Care has regulated and inspected care homes for children. The Protection of Children (Scotland) Act 2003 is being implemented to provide a list of persons unsuitable to work with children in either paid or unpaid employment. We are undertaking an extensive Child Protection Reform Programme, following the publication of *It's everyone's job to make sure I'm alright* in November 2002. That programme will provide extensive advice and guidance, staff development and a rigorous inspection regime. Most recently, in March 2004, we issued *Protecting Children and Young People - The Charter* and a Framework for Standards to help translate the Charter into practice. These set out what children, their parents and members of communities can expect from agencies tasked with the protection of children. Taken together, these measures will provide much greater protection for all children, including those living in residential care homes.

Providing high quality support for survivors of past abuse. Ministers are anxious to do the right thing by the survivors of past abuse. A short life working group to consider the detail of what is needed was established by Malcolm Chisholm to look at services for adult survivors of childhood sex abuse. It hopes to report to Ministers early in the autumn. On receipt of that report, Ministers will consider the detailed actions that will be required by them, and by local statutory and voluntary agencies, to meet the needs of survivors.

The remit of the working group is broad, and goes beyond those who were abused in the setting of a residential institution. It is considering the best ways for designing and delivering services for survivors. There is broad consensus among the Group that there are key areas for improvement in both statutory and voluntary sectors to enhance services for survivors. These include a general awareness campaign, improving training and education for professionals and key workers, and the need to build capacity within the voluntary sector agencies working with survivors which are bearing the brunt of referrals. The Group recognise that these and other issues require a coherent commitment to improve understanding of survivors' needs. While focused on survivors of sexual abuse, it is acknowledged that more can be done to improve the links with child protection, domestic abuse, and victims' strategies. We will also consider the application of recommendations for survivors of other forms of abuse.

Ensuring that individuals who have suffered abuse have access to legal rights and remedies. There are already a large number of civil claims currently before the courts, and the Executive has been asked to provide access to papers relevant to these cases. We want to be helpful and open to those who are pursuing their claims in this way, while taking careful account of due judicial process and making sure we do not inadvertently harm the interests of others.

We plan to make public the information held by the Executive on List D schools and other residential establishments. It is clear that these papers can be of help in these cases or that access to them can help survivors understand the background to the schools and their management. The Executive also wants to be completely open about the information we hold in relation to these cases to demonstrate we are not withholding evidence of abuse in these establishments or Government knowledge of such abuse.

However, the files contain personal details about pupils and teachers. We have a duty to protect the personal privacy of these individuals and we could not open the files for public inspection in their current form. Last year we closed some files that had been open to the public when it was discovered they contained such information. We are now in the process of 'redacting' relevant files. (Redacting is the process of blocking out names and other sensitive information so that files can be made public without damaging individuals' legitimate interests). This is a time consuming and complex process, but will allow us to make the information we hold publicly available.

We are also aware, having consulted organisations that have extensive experience of this type of work, that it can be very traumatic for individuals to read files and papers relating to their experiences, whether or not they are named or suffered abuse. We are therefore planning support to be available to individuals who come forward seeking access to files. We will make files available as soon as possible, but not before the files have been redacted, and suitable arrangements are in place to support the individuals concerned. We hope to be in a position to make these files available by the end of this calendar year at the latest.

Whether an Inquiry would prevent future abuse, help to meet the needs of survivors, or be in the public interest. We have given very careful consideration to this. We have concluded that, on balance, an inquiry would not achieve these purposes.

- We have taken a range of steps to improve the protection of children in residential establishments, based on the best evidence of what works, and do not believe that an inquiry into historical events would lead to further changes in current practice.
- We recognise that some survivors might welcome an inquiry, but also that others might prefer the issue was not raised in public because that would reopen old wounds. We need to find a way of meeting the needs of both sets of survivors. We are already considering what steps we can take to provide maximum support for survivors, targeted

on their individual needs, and are providing as much information as we can to support any legal challenges that might be raised. Individuals are already pursuing their legal rights to compensation through the civil courts and we would need to be very careful not to jeopardise that process through an inquiry.

- Finally, the public has a number of potential interests. They need to be reassured that such abuse cannot recur, that lessons have been learned, that survivors have the support they need, and that the legal process is able to take its course with full access to relevant information. We believe that the work described above would provide these reassurances. In addition, we consider that the holding of an Inquiry would have an unpredictable impact on public confidence. It might be perceived as a means of ensuring there were no residual issues, but it might be perceived, mistakenly, as an admission that there were issues still to be resolved, and lead to an unfair and damaging loss of confidence in existing provision.

I apologise again for the time to answer your initial enquiry which I have taken steps to ensure will not recur. I would be happy to answer any further questions you may have and, if you would find it helpful, my officials could provide you with more detailed briefing. If you would like to take up that offer, please contactto make the necessary arrangements.

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SOURCES

Berridge, D. and Brodie I. *Residential Care in England and Wales: the Inquiries and After* in Hill, H. and Aldgate, J. (eds) (1996) *Child Welfare Services*. London: Jessica Kingley Publishers.

Berry, K. (2004) *Child Protection*. SPICe Research Paper 04/20. Edinburgh: Scottish Parliament. Available at:
<http://www.scottish.parliament.uk/business/research/subject/children.htm>

Corby, B. (2000) *Child Abuse towards a knowledgebase*. 2nd Edition. Buckingham: Open University Press.

The Commission to Inquire into Child Abuse [Online] Available at:
<http://www.childabusecommission.ie>

The Commission to Inquire into Child Abuse [Online]. Available at:
<http://www.childabusecommission.ie>

Department of Health. (1992) *Children in the Public Care: A Review of Residential Care*. London: HMSO.

Department of Health. (1992) *Choosing with Care: The Report of the Review of Safeguards for Children living Away From Home*. London: HMSO.

Department of Health. (1997) *People Like Us*. London: HMSO.

The Guardian. (February 16 2000) *Refuges that turned into purgatory* [Online]. Available at
http://www.guardian.co.uk/uk_news/story/0,3604,232863,00.html

Irish Times. (8 September 2003) *Government response to Laffoy letter* [Online]
Available at:
<http://www.ireland.com/newspaper/ireland/2003/0910/3194831364HMRESPONSE.html>

Marshall, K. Jamieson, K. and Finlayson, A. (1999) *Edinburgh's Children: The Edinburgh Inquiry into Abuse and Protection of Children in Care Summary Report* [Online]. Available at:
http://www.edinburgh.gov.uk/CEC/Social_Work/Social_Work_and_Care_Services/Abuse_Inquiry/abuse.html

NSPCC. (2003) *Abuse of children in residential care* [Online]. Available at:
http://www.nspcc.org.uk/inform/Info_Briefing/AbuseOfChildrenInResidentialCare.asp
[Accessed 4 November 2004]

Peacock, Peter. (2004a) *Letter from Peter Peacock, Minister for Children and Young People, to the Public Petitions Committee regarding petition PE535, April 2004*. [Unpublished paper].

Peacock, Peter. (2004b) *Letter from Peter Peacock, Minister for Children and Young People, to the Public Petitions Committee regarding petition PE535, November 2004*. [Unpublished paper].

Scottish Office. (1992) *Another Kind of Home: A Review of Residential Child Care*. Edinburgh: HMSO.

Scottish Executive. (2002) *Its Everyone's Job to Make sure I'm Alright: Report of the Child Protection Audit and Review*. Edinburgh: Scottish Executive.

Scottish Parliament Petition PE535 lodged by Mr Christopher G. Daly August 2002
<http://www.scottish.parliament.uk/business/petitions/docs/PE535.htm>

Scottish Parliament Public Petitions Committee. (2002) *Official Report 15th meeting 2002, Session 1, 8 October 2002*. Cols 2341 – 2342. Edinburgh: Scottish Parliament. Available at:
<http://www.scottish.parliament.uk/business/committees/historic/petitions/or-02/pu02-1502.htm#Col2341>

Scottish Parliament Public Petitions Committee. (2003) *Official Report 7th meeting 2003, Session 1, 25 March 2003*. Cols 3053 – 3054. Edinburgh: Scottish Parliament. Available at:
<http://www.scottish.parliament.uk/business/committees/historic/petitions/or-03/pu03-0701.htm>

Scottish Parliament Public Petitions Committee. (2004a) *Official Report 8th meeting 2004, Session 2, 12 May 2004*. Cols 801 – 803. Edinburgh: Scottish Parliament. Available at:
<http://www.scottish.parliament.uk/business/committees/petitions/or-04/pu04-0801.htm>

Scottish Parliament Public Petitions Committee. (2004b) *Official Report 12th meeting 2004, Session 2, 29 June 2004*. Cols 957 – 958. Edinburgh: Scottish Parliament. Available at:
<http://www.scottish.parliament.uk/business/committees/petitions/or-04/pu04-1201.htm>

Scottish Parliament Public Petitions Committee. (2004c) *Official Report 14th meeting 2004, Session 2, 29 September 2004*. Cols 1045 1077. Edinburgh: Scottish Parliament. Available at:
<http://www.scottish.parliament.uk/business/committees/petitions/or-04/pu04-1402.htm#Col1045>

Stuart, M. and Baines, C. (2004) *Progress on Safeguards for Children Living Away from Home*. York: Joseph Rowntree Foundation.
Available at: <http://www.jrf.org.uk/knowledge/findings/socialpolicy/n54.asp>

Sunday Business Post. (18 January 2004) *Dempsey's Dithering on abuse defies belief* [Online]. Available at:
<http://archives.tcm.ie/businesspost/2004/01/18/story700160843.asp#>

Tisdall, K. (1996) *From the Social Work (Scotland) Act 1968 to the Children (Scotland) Act 1995: Pressures for Change* in Hill, H. and Aldgate, J. (1996) *Child Welfare Services*. London: Jessica Kingley Publishers.

Waterhouse, R. (2000) *Lost in Care: Summary of report of the Tribunal of Inquiry into the Abuse of Children in Care in the former county council areas of Gwynedd and Clwyd since 1974*. London: House of Commons.