



## National Inquiry into Historical Child Abuse

### Respondent Feedback Form

Please complete and return this form to  
[Survivor.Engagement@scotland.gsi.gov.uk](mailto:Survivor.Engagement@scotland.gsi.gov.uk)

If you need this document in another format, such as braille or audio, please let us know.

#### SECTION ONE – YOUR DETAILS

##### 1. Name/Organisation

###### Organisation Name

Title Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

###### Surname

###### Forename

##### 2. Postal Address

###### Email

##### 3. Permissions - I am responding as...

**Individual** / **Group/Organisation**

*Please tick as appropriate*

**Important Information: We would like to have responses by 26 March 2015. The Scottish Government does not intend to publish any individual responses, however, a summary of responses *will* be made available in Spring 2015. This summary report will include statistical information such as number of responses, as well as, an overview of responses by topic. Your response will be made available to the Centre for Excellence in Looked After Children (CELCIS) who are supporting the Scottish Government in the analysis of those responses.**

**4. Additional information – I am responding as:  
Please tick as appropriate**

|  |                                     |
|--|-------------------------------------|
| <b>1. NHS Health Board</b>                                       | <input type="checkbox"/>            |
| <b>2. Local Authority</b>  | <input type="checkbox"/>            |
| <b>3. Other statutory organisation</b>                           | <input type="checkbox"/>            |
| <b>4. Third sector care provider organisation</b>                | <input checked="" type="checkbox"/> |
| <b>5. Independent / private care provider organisation</b>       | <input type="checkbox"/>            |
| <b>6. Foster Care Provider</b>                                   | <input type="checkbox"/>            |
| <b>7. Education / academic group</b>                             | <input type="checkbox"/>            |
| <b>8. Independent School</b>                                     | <input type="checkbox"/>            |
| <b>9. Representative group for individuals affected by abuse</b> | <input type="checkbox"/>            |
| <b>10. An Individual affected by abuse</b>                       | <input type="checkbox"/>            |
| <b>11. Church / religious group</b>                              | <input type="checkbox"/>            |
| <b>12. Regulatory body</b>                                       | <input type="checkbox"/>            |
| <b>13. Other – please specify</b>                                | <input type="checkbox"/>            |

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#### SECTION TWO – YOUR VIEWS ON THE INQUIRY

##### **1. What should this Inquiry seek to do?**

###### **Guidance on this question:**

Much work has already been done to look at the circumstances in which abuse has taken place in some care settings. Work has also been done to support survivors – through Survivor Scotland, the NCF and the InterAction process.

The Inquiry – which will report to Scottish Ministers – will need to build on this activity, making sure its work is complementary to it, and that everyone is clear about what the Inquiry will deliver, and what other work is already under way.

###### **Q: What do you think should be the outcomes of the Inquiry?**

*Please tick all those you agree with*

**Hear the experiences of individuals who have been subject to abuse in institutional care.**

**Hear the perspectives of state and non-state providers of residential care on meeting their past duty of care.**

**Create a national public record of historical child abuse in institutional care.**

**Raise public awareness and understanding about abuse and its impact.**

**Provide an opportunity for public acknowledgement and validation of the experiences of those who have been abused.**

**Identify how much risks have been reduced by recent changes to policy, practice and legislation, and decide what further changes are needed to improve safeguards for children in institutional care.**

###### **Q: Are there other specific outcomes you think the Inquiry should deliver?**

|   |
|---|
| Consider the recovery and support needs of survivors and make recommendations about how these can be met. |
|---|

##### **2. Setting the terms of reference for the Inquiry.**

###### **Guidance on this question:**

It is for Scottish Ministers to set the Inquiry's scope and terms of reference. The Chair of the Inquiry, once appointed, may seek agreement from Ministers to vary these terms of reference. However, the Cabinet Secretary, Angela Constance, on behalf of the Scottish Government, says she wants to know what survivors and other relevant organisations

think. We already know the views of many survivors and others and we will take them into account as well. Ministers are clear that they want the terms of reference to help ensure the inquiry can draw conclusions on important points in a clear timescale. They also want the Inquiry to add value to work to date.

*To help Ministers determine the scope of the Inquiry, we would like your views on these outline terms of reference:*

### **Timeframe – upper limit**

**The Inquiry will focus on historical abuse. For example, significant changes to legislation affecting the welfare and protection of children were introduced in 1995. Another option would be to set an upper limit from 2002, when new arrangements for regulating those that provide care came into force.**

**Q: From before what date should ‘historical’ be defined?**

It is important to acknowledge that child abuse is not only a historical matter: sadly, children are still being abused in Scotland today. While we recognise the importance of a systematic approach to historic child abuse, the learning from this must be used to ensure better outcomes for children, now and in the future.

Although we acknowledge the need, for practical reasons, to have an upper time limit, we would question how useful this will actually be; it runs the risk of simply creating another barrier preventing survivors from accessing the inquiry. Furthermore, using an upper limit that reflects legislative change could be construed as implying that this legislative change ended the abuse of children in some way, meaning that children are not currently being abused, which we know to be untrue.

Whilst we understand that the purpose of this inquiry is to learn lessons from the past, it is crucial that we do not start making arbitrary distinctions between past and present, as this could serve to distract us from the needs of those at risk of, or experiencing, abuse now, and those who need support to recover.

### **Timeframe – lower limit**

**Q: Should there be a date before which the Inquiry will not consider historical abuse?**

YES   
NO

**Q: If you have answered ‘yes’ to the above question, what should that date be?**

**Q: If you have answered ‘no’ to the above question, should any lower limit simply be ‘within living memory’?**

YES   
NO

### **Types of Abuse**

**The starting point is that the Inquiry should cover all forms of abuse – physical, sexual and emotional as well as neglect.**

**Q: If you do not agree with this, what should the Inquiry be limited to, or focus on in terms of types of abuse?**

We believe that the focus of this inquiry should be on the impact of trauma, and should therefore cover all types of abuse. There are often links between different types of abuse, for example a child may be removed from his parents because of neglect and then be sexually abused by a care worker. This child has experienced sexual abuse – which, by its very nature, also involves emotional abuse – and neglect. The impact of these multiple types of abuse is the key issue, not drawing distinctions and divisions between different types of abuse.

### **Nature of Abuse**

**By this we mean circumstances where the culture of an organisation or care setting condoned and/or failed to act to deal with abuse or report it.**

***Q: Do you think it will be helpful for the Inquiry to include these circumstances and that it is about the ‘acts or omissions’ of institutions or care settings where abuse took place?***

Yes. This inquiry should be focused on the experiences of survivors, and the impact of trauma on the survivor is equally important whether the perpetrator was acting alone or whether an institution allowed this to happen. In addition, in order to learn lessons for the future, it is essential to understand how organisational culture allowed this abuse to happen so we can avoid making the same mistakes again.

### **Types of Care Settings**

**While recognising that abuse has and can take place in many settings – including by parents, relatives and others – the Inquiry will need to be clear which types of care settings are within its scope, in order to be able to draw clear conclusions in a reasonable timescale.**

**Q: Should it focus on the principle that it should include settings where the ‘state’ has had a role and specific duty in acting to safeguard children and where it would have had a role if using current definitions of a “looked after child”?**

We believe this inquiry should encourage as many survivors of abuse as possible to come forward and contribute their knowledge and experience. We would welcome as wide a definition as possible of institutional care. This could include any abuse that took place while a child was in the care of any public organisation such as the police, judiciary, or education system, for example. It should also include any children with disabilities who were abused while in any form of care, including short break/ respite care. We believe this would enable many more survivors to come forward, and would also enable a more accurate and informative picture of the past to be built up, which could help us avoid the same abuse happening in the future.

**Q: What specific care settings should be included in this inquiry?**

All care settings (see above).

### Timeframe for Reporting

It will be important to set a timescale that the Inquiry can be reasonably be expected to report in. This will ensure that relevant organisations and – most importantly – survivors know when they will hear what the inquiry’s findings are. This will depend on the final agreed scope of the Inquiry – and may change during the course of the Inquiry.

**Q: When would it be reasonable to expect the Inquiry to report of starting its work?**

### Definition of a Child

**Q: While the legal definition of a child has changed over the years, for the purposes of the Inquiry, should this be defined as anyone aged 18 years or under at the time of the abuse?**

YES   
NO

### Where the Abuse Happened

The scope of the Inquiry will be limited to either where the abuse took place in Scotland or where those who had the responsibility for making the arrangements for the safeguarding children were located in Scotland . Where there is evidence of abuse that took place elsewhere in the UK it would be a matter for equivalent Inquires in England and Wales and Northern Ireland or for the police in those jurisdictions in the case of evidence of criminal activity emerging.

***Q: Is this reasonable and does it reassure survivors that their experiences, wherever they happened in the UK, would be taken into account?***

YES   
NO

In principle this makes sense but in reality cases of child abuse may not always be simple to define. There may, for example, be cases in which abuse took place in different parts of the UK, over a long period of time, or in which perpetrators from Scotland abused children in another part of the UK. In these cases it will be essential that survivors are not simply refused entry to this inquiry but that arrangements are made for their voices to be heard elsewhere. The inquiries may not all be running at the same time, so it may be necessary to consider what will happen if a survivor who technically ‘should’ have participated in, for example, the UK inquiry, comes forward during the Scottish inquiry if the UK inquiry has finished. In addition it is essential that any survivor coming forward, whether eligible to take part in the inquiry or not, is signposted to appropriate support or recovery services.

### **3. What should we look for in a Chair and Panel?**

**Guidance on this question:**

Ministers must appoint a Chair to an inquiry and they can also appoint others to help the Chair (known as a 'Panel'). Alternatively, the Chair can appoint 'assessors'. In terms of an inquiry, assessors are seen as experts on specific issues or areas.

The Chair will also appoint others in due course – for example, legal counsel or others to help them discharge the duties of the inquiry.

Angela Constance, on behalf of Scottish Ministers, wants to know what attributes you think the Chair and Panel should have.

*Some suggested attributes are shown here:*

- Able to build and maintain the confidence of survivors, relevant organisations, the general public and Ministers throughout the Inquiry process.
- Commanding the respect of participants.
- Treating all participants with dignity and respect, particularly where sensitive information is concerned.
- Providing clear leadership, being decisive and prepared to challenge others where appropriate and necessary.
- Drawing out evidence and managing the process so as to respect everyone's right to natural justice and human rights.
- Able to analyse evidence and reach conclusions to help in making clear recommendations.
- Knowledge of human rights.
- Knowledge of child care institutions and their operation in Scotland.
- Understanding of legislation, policy and practice and its impact on child care in Scotland.

**Q: Are these the right attributes?**

YES

NO

**Q: Are there other skills, knowledge or attributes that survivors and relevant organisations would consider important to ensure the Inquiry operates effectively and delivers on its remit in a way that is sensitive to the needs, interests and experiences of survivors?**

An understanding of the impact of trauma will be essential, as will the ability to be survivor centred.



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#### SECTION THREE – OTHER CONSIDERATIONS

##### Guidance on this section:

Some other important questions emerged from an ‘InterAction’ process set up by the Scottish Human Rights Commission as part of work to seek remedies for historical child abuse in Scotland. While we are currently considering many of these issues, we would also like to hear your views.

#### 4. Commemoration

**We would like to know what you think about a commemoration, and what form this might take:**

**Q: Should it be:**

*Please tick only one preference*

**Physical commemoration e.g. garden of remembrance?**

**If you answered ‘yes’ to the above question, where should this be?**

**An Event?**

**If you answered ‘yes’ to the above question, should it be a one-off event or another frequency?**

**If you don’t think any of the above suggestions are suitable, do you have something else in mind?**

Any form of commemoration would need to be handled extremely sensitively, as this could be seen as drawing imaginary distinctions between the past and present, implying that once historical abuse has been ‘dealt with’ we can all move on. This is clearly not the case as children are still experiencing abuse now.

In order to decide if and how to commemorate, and to discuss issues around a survivor support fund and timebar, it will be essential for a full and frank consultation to take place with survivors of abuse. We have encouraged survivors we work with to respond to this consultation but recognise that it is not always easy for individuals to respond to consultations of this nature.

CHILDREN 1<sup>ST</sup> runs ParentLine, Scotland’s confidential helpline, email and

web-chat service, for anyone caring for or concerned about a child. We would be happy to use ParentLine to enable survivors to respond to this and any further consultations – this may enable a wider range of responses to be gathered as it will avoid literacy or communication difficulties preventing people from responding. Do let us know if this would be helpful.

## 5. Survivor Support Fund

There are a number of things we will need to consider in setting up a Survivor Support Fund. We know there will be others as well:

- How the development of a Survivor Support Fund can be taken forward in parallel to the Inquiry.
- How can survivors and others be involved in the process of deciding on the arrangements for establishing a Survivor Support Fund
- How can we ensure that a Survivor Support Fund will not duplicate existing statutory services but complement them e.g. healthcare, education and housing

### Q: What should be the key purpose of a Survivor Support Fund?

CHILDREN 1<sup>ST</sup> supports the idea of a Survivors' Support Fund, and would want this to be applied as widely as possible. One example of how this might be established and funded might be through some kind of compensation or restitution order applying to those convicted of online sexual offences. Online grooming, the taking, holding and sharing of indecent images of children and sexually abusing children online is still by many to perceived as a victimless crime, because of the lack of physical contact. At the same time, we know of the funding and resource pressure on services which support children to recover from child sexual abuse – our own services are almost entirely funded through our own fundraised income and yet, the waiting list for these services is always one of the longest.

Applying something like a restitution or generic compensation order to offenders of specific online sexual offences – many of whom often have resources available – to go towards funding abuse and trauma recovery services would enable more children and young people who have been sexually abused to receive the right support at the right time to recover. Such orders would also be suitable for funding a Survivors' Support Fund more generally.

Any plans for a Support Fund would need to be handled sensitively, particularly around financial payment to individual victims. Many would not want to receive compensation from the perpetrator of their abuse, even many years afterwards, but the idea of people having a general fund to apply to for support might assuage such concerns.

Again, the idea of a survivor support fund is one which we feel requires further consultation with survivors, which we would be happy to help facilitate through ParentLine.

### Q: What additional services should a Survivor Support Fund seek to provide?

**Q: Who should administer such a Fund? Scottish Government? Others? A partnership?**

**Q: What should the eligibility criteria be to access a Survivor Support Fund?**

**Q: What are the barriers to accessing existing services?**

## **6. Timebar**

Survivors have said that the time bar stops people getting access to civil justice. It means survivors cannot get legal aid, which may then impact lawyers' decisions to accept cases. The Scottish Government has said it will work with survivors and the wider legal profession to understand these issues better.

**Q: In what way might the inquiry strengthen understanding of how time bar affects survivors and how those impacts might be best addressed?**

## **7. Any other issues**

Please tell us about any other issues you would like to offer views on about setting up the Inquiry, its terms of reference and what attributes the Chair and Panel might need to have.

**Thank you for taking the time to offer your views.**

**Please complete and return this form to [Survivor.Engagement@scotland.gsi.gov.uk](mailto:Survivor.Engagement@scotland.gsi.gov.uk) or send to:**

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