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# Consultation on the Public Inquiry into Historical Child Abuse in Scotland and other Scottish Government Commitments to Survivors of Historical Child Abuse

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## Contents

1	INTRODUCTION	3
2	METHODOLOGY	4
2.1	Scottish Government and CELCIS roles in consultation	4
2.2	Regional engagement events	4
2.3	Local engagement events	5
2.4	Telephone information line	5
2.5	Online and paper-based questionnaire survey	5
2.6	Email, Facebook and letters	5
2.7	Engagement response from Izzy's Promise	5
2.8	Analysis of the responses	6
3	RESPONSES FROM SURVIVORS	7
3.1	Responses to the consultation	7
3.2	Responses regarding the Public Inquiry	7
3.3	Other considerations	16
4	RESPONSES FROM NATIONAL AND LOCAL ORGANISATIONS AND PROVIDERS OF CARE AND OTHER SERVICES	23
4.1	Organisations who responded to the consultation	23
4.2	Responses regarding the Public Inquiry	25
4.3	Other considerations	32
5	CONCLUSIONS	36
	APPENDIX 1: CONSULTATION QUESTIONNAIRE	40

# 1 Introduction

In 2013, the Scottish Human Rights Commission established an InterAction on the Historic Abuse of Children in Care which was facilitated by the Centre for Excellence for Looked After Children in Scotland (CELCIS). The InterAction brought together victims and survivors of abuse in care, agencies that have historically provided residential care or foster care for children, faith-based organisations, the Scottish Government, and professionals currently involved in the care and protection of children. Following extensive discussions, the InterAction produced an *Action Plan on Justice for Victims of Historic Abuse of Children in Care*. The Action Plan set out a number of commitments to address the acknowledgement of, and accountability for, the historic abuse of children in care, including achieving effective apologies, access to justice, effective remedies and reparation.

At the InterAction meeting which took place on 27 October 2014, the Cabinet Secretary for Education, Michael Russell - accompanied by the Minister for Children and Young People, Aileen Campbell; the Minister for Community Safety and Legal Affairs, Roseanna Cunningham; and the Minister for Public Health, Michael Matheson - set out a number of Scottish Government commitments to address the Action Plan. These included the development of a national Survivor Support Fund, commemoration, effective apologies and an Apology Law, work on civil justice and the time bar, and a consistent approach to investigating cases of historic child abuse. On the issue of a Public Inquiry, he stated that this had not been ruled out. Michael Russell confirmed these commitments in a Parliamentary statement, on 11 November 2014, including a confirmation that there would be a decision on a Public Inquiry by Christmas 2014.

On 17 December 2014, the new Cabinet Secretary for Education and Lifelong Learning, Angela Constance, on behalf of the Scottish Government, made a Parliamentary statement announcing the Government's intention to hold a Public Inquiry into Historical Child Abuse.

In her statement, the Cabinet Secretary also made a commitment to consult with survivors and relevant organisations on the exact terms of reference of the Public Inquiry and the attributes of a chair or panel. She announced that as part of the process, there would be a series of regional events which would allow contributions about the Public Inquiry and also about the Survivor Support Fund. This would take place in a timescale to allow an announcement on the terms of reference and the Chair or Panel of the Public Inquiry by the end of April 2015.

This report sets out the process of the consultation and provides an analysis of the responses. It will be considered, along with a range of other evidence, in determining the relevant issues in relation to the Public Inquiry into Historical Child Abuse and the other InterAction Action Plan commitments made by Scottish Government which will be carried forward alongside the Public Inquiry.

## 2 Methodology

### 2.1 Scottish Government and CELCIS roles in consultation

The consultation on the Public Inquiry into Historical Child Abuse and other Scottish Government commitments to survivors of abuse was carried out in partnership between the Scottish Government and the Centre of Excellence for Looked After Children in Scotland (CELCIS). It involved a range of activities to engage with survivors and other relevant organisations about the terms of reference for the Inquiry, the attributes of the Chair and Panel, shaping the Survivor Support Fund, and other Scottish Government commitments.

The Scottish Government set up a website on the Consultation on the Public Inquiry into Historical Child Abuse:

<http://www.gov.scot/historicalchildabuse>

The website gave information on what has happened previously in terms of inquiries and the Scottish Human Rights Commission InterAction on Historic Abuse of Children in Care. It provided information on what a statutory Public Inquiry would involve, and it asked for views on a range of issues related to the Inquiry and also asked about other commitments that Scottish Government has made to survivors of abuse. The online survey was also available on the Scottish Government consultation website at:

<https://consult.scotland.gov.uk/health-and-social-care/inquiry-into-historical-child-abuse>.

Information and links to the Scottish Government website were also placed on the CELCIS website:

[http://www.celcis.org/training\\_and\\_events/engagement\\_event\\_for\\_survivors](http://www.celcis.org/training_and_events/engagement_event_for_survivors);

and the SHRC InterAction website:

<http://www.shrcinteraction.org/NationalInquiry/tabid/5090/Default.aspx>.

The consultation took place between 29 January 2015 and 26 March 2015.

### 2.2 Regional engagement events

CELCIS and Scottish Government arranged a number of engagement events across Scotland, and these involved separate events for survivors of abuse and for other relevant organisations. In total, nine events for survivors took place and three events for organisations. Two of the events for organisations took place in Glasgow and one in Edinburgh. In total, 29 individuals from 22 organisations attended these events.

The nine engagement events for survivors took place across Scotland: three in Glasgow, three in Edinburgh, two in Perth, and one in Inverness. While an average of ten survivors attended each of the regional events, a number of survivors attended more than one event. This meant that the engagement events were attended by 58 individual survivors.

### 2.3 Local engagement events

The Scottish Government SurvivorScotland team arranged local engagement meetings through seven survivor support organisations: Moira Anderson Foundation; Survivors Unite; Speak Out Scotland; Talk Now; Dunoon Rape Crisis Service; Mind Mosaic; and In Care Survivors Service Scotland. These engagement meetings took different formats. In the case of five of the support organisations, group meetings took place, and in two of the organisations individual meetings took place with eight survivors. One survivor took part in a telephone interview. In total, 33 survivors of abuse and one family member of a survivor took part in the meetings.

### 2.4 Telephone information line

For the period of the consultation, CELCIS set up a free telephone information line to provide assistance and information about the consultation to survivors of abuse. The helpline took 62 calls. In one case, the caller asked for information that they gave over the phone to be included in the consultation.

### 2.5 Online and paper-based questionnaire survey

The questionnaire for the consultation was provided in various formats. It could be filled in online, completed as a Word document, or hand-written on a paper questionnaire.

In total, 37 questionnaires were completed by individual survivors or individuals affected by historic abuse. In addition, 17 questionnaires were returned by organisations, and four questionnaires were returned by professionals who responded as individuals.

### 2.6 Email, Facebook and letters

Finally, both survivors and organisations submitted a range of information relevant to the consultation by email, letters and through Facebook. These varied responses to the consultation were sent to Scottish Government, CELCIS or directly to individuals involved in the consultation. In total, 12 survivors and two survivor organisations provided responses this way, and five organisations did so.

### 2.7 Engagement response from Izzy's Promise

The survivor support organisation Izzy's Promise organised two engagement activities for the consultation. They held an Engagement Forum which involved 20 survivors, staff and volunteers from five support organisations: Eighteen and Under, 18 Plus, Izzy's Promise,

Addaction, and Carr Gomm. They also organised an online survey targeted at survivors of abuse, and 34 individuals responded to the survey. The questions in the online survey were slightly different to the consultation questionnaire and the questions were framed as if the Public Inquiry would focus on historical abuse of children in care (for example, the title of the survey was: 'Statutory Inquiry into Historic Child Abuse in Care'). The responses to the survey reflected this.

## 2.8 Analysis of the responses

As can be seen, responses to the consultation were gathered in a range of ways: questionnaires with open and closed questions; notes of group discussions and interviews with individual survivors; and emails, letters and other documents. Questions for the consultation were also set out in different ways, and the information gathered for the consultation could be in response to the consultation questions, responses made to questions and issues raised in group discussion, or they could be highlighting specific issues raised by survivors or organisations. These issues could be more or less applicable to the specific focus of this consultation. Participants in the consultation were encouraged to take every opportunity to feed back their responses to the consultation questions. This meant, for example, that they may have attended more than one engagement event, as well as submitting responses through the consultation questionnaire or other means.

The nature of the responses and the opportunities to provide feedback in more than one way means that it has not been possible to carry out a detailed statistical analysis of the feedback, as this could be potentially misleading. The analysis has therefore used more approximate terms to indicate the level of consensus or differences of opinion in relation to particular issues. For example, we have used phrases such as 'most survivors' or 'some representatives of organisations' to show the extent to which respondents have identified particular issues.

We have used the framework of the consultation questionnaire to structure the analysis and the report, and we have drawn out the main themes and issues in the responses. We have not been able to include every issue raised in the responses, either because there was a level of personal or technical detail which was not appropriate, or because issues fell outwith the consultation framework. We have made every effort, however, to include information from the full range of the responses to the consultation.

Finally, a draft of the report has been shared with a group of survivors of abuse, as well as CELCIS and Scottish Government staff who were involved in the engagement events, and their feedback on issues of accuracy and balance has been addressed in the final version of the report.

## 3 Responses from survivors

### 3.1 Responses to the consultation

Responses to the consultation came in a variety of ways, and, as noted above, 58 survivors attended regional events, 33 survivors and one family member were involved in local engagement events, 39 survivors, individuals affected by abuse or survivor organisations returned questionnaires, and 12 survivors and two survivor organisations returned responses in other ways. There were 62 calls to the CELCIS information telephone line and one survivor asked for information to be forwarded as part of the consultation. Thirty-four individuals also responded to the Izzy's Promise survey.

We noted above that the announcement on the Public Inquiry and other Scottish Government commitments to support the needs of survivors of historic abuse were in response to the SHRC InterAction *Action Plan on Justice for Victims of Historic Abuse of Children in Care*. However, the consultation specifically asked about the scope of the Inquiry and which settings should be included. A significant number of those who engaged in the consultation, then, experienced abuse as children in care. A broader range of survivors also participated in the consultation, including those who were abused in the family home.

### 3.2 Responses regarding the Public Inquiry

#### 3.2.1 What should the Inquiry seek to do?

The consultation outlined six potential outcomes of the Inquiry and asked respondents to indicate those they agreed with. These were:

- Hear the experiences of individuals who have been subject to abuse in institutional or other care settings
- Hear the perspectives of state and non-state providers of residential or other care on meeting their past duty of care
- Create a national public record of historical child abuse in institutional or other 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 or other care.

The consultation also asked respondents whether there are other specific outcomes that the Inquiry should deliver.

Survivors considered that the Public Inquiry would be critical in establishing the facts and seeking the truth about historical child abuse. It was considered essential that an effective and comprehensive Inquiry could hold people and organisations to account for their actions, improve future outcomes and prevent continuing harm.

Overall, survivors agreed with all the potential purposes of the Inquiry which were set out in the consultation, although some survivors gave greater priority to particular outcomes than others. Three of the outcomes (hearing the experience of survivors, raising public awareness, and providing an opportunity for public acknowledgement) were identified by slightly more survivors than the remaining three outcomes (hearing the perspectives of providers of care, creating a national public record, and identifying the reduction of risks and need for changes to improve safeguards).

Survivors were strongly of the view that the Public Inquiry should hear the experiences of survivors of abuse, and that their experiences should be placed at the centre of the Inquiry's work. As one survivor put it:

*... the Inquiry must consider how best that those survivors who cannot speak for themselves can have their story and testimonies told and heard. Their evidence is crucial and it would be a real omission if their experiences are not brought to light.*

It was also considered important that the survivors' experiences of the long-term consequences of abuse were highlighted by the Inquiry; the lifetime implications of abuse and its impact on survivors' quality of life, relationships, education, career and mental health.

Most survivors also considered that hearing the perspectives of providers of care about their past duty of care was important. They considered that this was essential in order to understand why the cases of abuse happened; *'to hear why they did what they did.'* It was also considered important to hear why reports of abuse were not taken seriously and abuse continued even when people knew about it. An important aspect of hearing the perspectives of providers concerned survivors hearing their acknowledgement of responsibility.

*I would hope that the institutions involved in child abuse will acknowledge what went on in their care homes even though many perpetrators will have died.*

This was clearly linked to the strong call for the Public Inquiry to achieve justice for survivors.

*What is required by survivors is that the Inquiry will be the catalyst for survivors achieving justice, accountability and reparation.*

Survivors considered that organisations should be held to account both in terms of the acts of abuse and in terms of the denial of abuse. They also raised concerns about the silence of those who knew about abuse but took no action, and the cover-up of abuse through destruction of records and inaction in terms of investigation and prosecution of perpetrators; this was often framed in terms of cover up by the 'Establishment'. It was considered that this would also involve apologies and accountability from organisations, institutions and other care providers as well as from the Scottish Government. Where the perpetrators of abuse were identified by the Inquiry, criminal investigations and prosecutions should follow.

Survivors considered that there was a role for the Public Inquiry in raising public awareness and understanding about abuse and its long-term impact. This was not just about the abuse of children in care and institutions but about all forms of abuse and in all situations. This was linked to the importance of reducing the stigma of disclosing abuse and ensuring that the abuse of children was no longer a 'secret' or a 'taboo subject'. It was felt that professionals, such as GPs, also needed to be more aware and that there needed to be more focus on prevention of abuse. The importance of raising public awareness of the long-term consequences of abuse for survivors and their families was also highlighted by survivors.

*Only by having an outcome whereby a child in such difficulties today could be signposted to an expert in the field, will the pervasive silence be shattered.*

Raising public and professional awareness was linked by some survivors to the public acknowledgement of the abuse of children, and the need of survivors for validation and to be believed.

Identifying how risks have been reduced and what further changes are needed to improve safeguards for children was considered to be essential by many survivors. They considered that the public inquiry should:

*... address any failings identified, to take any necessary steps that the State and Non-State institutions are required to take to ensure "Lessons are Learnt" and to help prevent repetition in the future.*

This includes determining whether action has been taken on previous reports and inquiries into the abuse of children in care, and if not, why not. Survivors highlighted the importance of protecting and safeguarding children in care, as well as, more generally, ensuring the safety of all children from abuse. They also highlighted the importance of listening to children and believing them.

*We need to know that this won't happen to children again. Anyone who works with children needs to be checked and checked again.*

Survivors also highlighted that the Public Inquiry should address issues about the level of support and help that is available to survivors of abuse; this included access to a range of support such as education, housing, mental health services and counselling, and

resources for existing services. Some survivors considered that it was important that the Public Inquiry addressed the need for support in accessing records and ensured that there were no obstacles to making records freely available.

Survivors, particularly those who experienced abuse in care or institutional settings, considered that the Public Inquiry should address the issue of reparation and compensation. One of these survivors stated:

*The inquiry needs to seriously tackle the issue of reparation. Survivors need more than acknowledgement and validation of their abuse. They need to see the organizations and institutions responsible made to pay the costs of the suffering they caused. This is the only way to truly compensate for what they did to thousands of innocent children.*

Some survivors who did not consider compensation in relation to themselves, acknowledged that compensation might be relevant to other survivors:

*Not interested in compensation but can understand why some people want it.*

As the InterAction *Action Plan* considered reparation and compensation in the context of a National Reparation Fund or Survivor Support Fund, a number of survivors also related the issue of compensation to this aspect of the consultation (see Section 3.3.2). One survivor organisation considered that:

*Other elements such as reparation, support, apology etc. are separate elements contained within the interaction plan and should be dealt with separately out-with any Inquiry process.*

### 3.2.2 Setting the Terms of Reference for the Inquiry

#### a) *Timeframe*

The consultation asked questions about how far back the Inquiry should consider cases of abuse. It asked whether there should be a date before which the Inquiry will not consider historical abuse, or whether this should simply be 'within living memory'.

The great majority of survivors considered that there should not be a date before which the Inquiry should not consider historical abuse. A small number, however, did suggest a date, one survivor suggested 1945, another suggested 1900, and one suggested that earlier experiences of abuse in the 19<sup>th</sup> century should be included. The majority of survivors also agreed that the Inquiry should consider all cases 'within living memory'. One survivor expressed this as: 'all living survivors should be able to be heard'.

The consultation also asked whether there should be an 'upper limit' to the timeframe of the Inquiry and asked before what date 'historical' should be defined. It must be acknowledged that a number of online answers suggested that this question was not understood by all survivors. A number of survivors also felt that they were not in a

position to answer this question, for example: 'The Inquiry is better placed to answer this than me'. Some survivors did suggest a date such as 1995 or 2002. Most survivors who addressed this question considered that there should not be an 'upper limit' and cases should be considered up to the present. One survivors' organisation considered that this upper limit should be the date that the Inquiry was announced in December 2014, another survivor stated that it should be 'up to yesterday'. The question was also asked whether the Inquiry could be flexible about this 'upper limit' or whether the Chair of the Inquiry could have discretion to include more recent matters.

A number of survivors raised the use of the term 'historical' in relation to the abuse to be covered by the Inquiry. They considered that while the abuse itself might have been in the past, the survivors had lived with this all their lives and were living with the experience and consequences of the abuse into the present. There was concern that the use of the term 'historical' minimised the ongoing impact of the abuse and survivors' current situations. Other survivors also considered that the term 'historical' suggested that abuse was all in the past and minimised the extent of child abuse in the present time.

#### *b) Types of Abuse*

The consultation question about which types of abuse should be covered by the Inquiry stated that the 'starting point is that the Inquiry should cover all forms of abuse - physical, sexual and emotional as well as neglect'.

Survivors agreed that the Inquiry should cover all forms of abuse: physical, sexual, emotional abuse and neglect. They highlighted that many survivors have been subjected to multiple types of abuse, and that different types of abuse are often inter-linked.

Survivors also identified particular aspects of abuse which should be addressed by the Inquiry. It was highlighted by some that many survivors were abused whilst in the care of religious institutions, and as a result lost their faith in those institutions, something that had been important to them and their families. Consequently, they felt that the Inquiry should also cover what was termed 'spiritual abuse'. Some survivors raised the issue of medical abuse and experimentation needing to be addressed by the Inquiry.

The issue of peer abuse was raised by a number of survivors, and they described how this was encouraged and facilitated in some settings. It was felt that this should be covered by the Inquiry.

A number of survivors also felt that the Inquiry should cover systemic abuse and neglect. Survivors put forward a number of examples of this broader type of abuse which had impacted on their lives. These included: being discharged from care too early or at too young an age and without appropriate support; separation from their siblings; being returned home to abusive parents, and a lack of educational opportunities. Survivors highlighted the loss of identity because of separation from their families, not knowing their life stories, and their lost childhood.

Some felt that the policy of 'emigrating' children abroad under the various child migration schemes constituted abuse, as children were separated from their parents and siblings, with many being told that they had no family. Many were abused in their new placements. As such, this was felt to be a legitimate area for inclusion.

Finally, it was also felt that 'ritual' abuse, including organised paedophile activity, should be covered.

### *c) Nature of abuse*

The consultation asked about the nature of abuse, that is, circumstances where the culture of an organisation or care setting condoned or failed to act to deal with abuse, and whether the Inquiry should include 'acts of omission'.

All participants agreed that the Inquiry should include 'acts of omission'. Organisational culture which allowed abuse to happen was considered to be an important aspect which needs to be considered and it was highlighted by some that often the culture of an organisation was one of protecting the reputation of the institution or organisation, rather than protecting the child from abuse. This sometimes resulted in further abuse, especially if the child complained, and enabled abusers to continue unchecked in some establishments. A 'macho' culture of conformity was also felt to exist in some places with children being kept in check by fear and isolation.

It was expressed that there should also be consideration of acts of omission by 'state and non-state bodies' in respect of the way they handled allegations of abuse. This would include criminal justice agencies with a responsibility to investigate and take proceedings forward (the police and Crown Office). Scrutiny of the handling of reported crime by police and prosecutors was therefore considered to be important.

While it was felt that important lessons need to be learned from such failings, it was also seen to be pertinent by some that the Inquiry should acknowledge those who tried to protect children from abuse, regardless of the prevailing culture.

### *d) Types of Care Settings*

The consultation asked about the types of care settings the Inquiry should include, and whether it should focus on the principle of including 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'.

Overall, responses were mixed in respect of this. A number of survivors, particularly those who had experienced abuse in care, stated that the Inquiry should address abuse in residential and institutional care settings. Other survivors considered that the Inquiry should include all forms of care settings, for example, children's homes, residential schools, assessment centres, foster care and kinship care. This was often expressed in terms of the responsibility of organisations or the state:

*Any setting where a child is accommodated via statutory bodies.*

Some survivors also considered that those who had been adopted and abused in adoptive families should be included.

Survivors suggested a wide range of residential or institutional establishments to be included in the Inquiry. These included both statutory care settings (children's homes, residential schools, List D schools, assessment centres, secure accommodation) and other settings (NHS hospitals and long-stay hospitals, independent boarding schools, private schools, young offenders' institutes, remand centres, and prisons).

A number of survivors considered that the experiences of those living at home who were abused by an individual such as a doctor, a member of the clergy, teacher, scout leader or sports instructor, should be included. This could be expressed in terms of a 'duty of care' which extended beyond abuse of children in statutory care settings.

*We feel that any organisation that had a duty of care towards a child should be included. This would cover all residential institutions, both public and private. Fostering, Day care facilities. schools, both public and private. Sporting organisations. Parish situations where there was a duty of care.*

Finally, a number of survivors considered that the Public Inquiry should include all settings in which abuse took place, including the family home:

*All types... the whole system... It makes no sense not to include protecting children at home... home settings too.*

#### *e) Timeframe for Reporting*

Survivors gave a wide range of views on how long the Public Inquiry should take. These ranged from six months to five years. It was considered important that the Inquiry was rigorous and did it right. It was also important that it produced interim reports and communicated on progress.

Discussion about the types of abuse and the range of settings to be included in the scope of the Inquiry raised issues about the timeframe for reporting. Some survivors questioned whether the Inquiry having a broad remit and scope would mean that it would take too long. Equally, some survivors felt that that the Inquiry's scope should be as wide as possible, and this would need to be addressed by ensuring the resources were available to enable the Inquiry to report in a reasonable timescale.

#### *f) Definition of a Child*

The consultation question on the definition of a child acknowledged that the legal definition of a child has changed over the years. It asked whether, for the purposes of the Inquiry, this should be defined as anyone aged 18 years or under at the time of the abuse. Most survivors agreed with this definition, and that a child should be anyone aged

18 years or under. A small number, however, identified 16 years or under as the age that should be set.

The situation of vulnerable adults was also raised, for example, people with a learning disability, given instances of abuse in care settings.

#### *g) Where the Abuse Happened*

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

Survivors agreed that the scope of the Inquiry should include situations where the abuse took place in Scotland and where the arrangement for the safeguarding of children was in Scotland. Specific examples were discussed, such as children moving into Scotland and being abused here or being placed outwith Scotland and being abused. This included the issue of child migrants, where the abuse might have taken place abroad but agencies in Scotland were responsible for the relocation of the children. It would also cover the situation of organisations which placed Scottish children in other countries of the UK.

Concern, however, was expressed by some that instances of abuse should not 'fall through the net' and that as such, formal arrangements should be made between the different UK Inquiries in order that everyone would have the opportunity to be heard.

### 3.2.3 What should we look for in a Chair and Panel?

The consultation set out the process of appointment of a Chair to the Inquiry and the possibility of appointing a Panel or Assessors to support the Chair. It asked respondents to give their views on the attributes that the Chair and Panel should have. Some suggested attributes were set out:

- 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

Survivors agreed with these as important attributes of the Chair and Panel, and for some these were seen to be sufficient. In the discussions about the attributes of the Chair and Panel, survivors reinforced the importance of particular aspects of these attributes and also raised a number of other issues. Survivors saw the appointment of the Chair and the Panel as critical to the success of the Inquiry, and a number made reference to difficulties encountered in the appointment of the Chair of the Inquiry into Child Sexual Abuse in England and Wales. Survivors stressed that the process of the appointment of the Chair and the Panel needs to be open and transparent and there were a number of calls for the participation of survivors in the process of appointment, for example through the involvement of survivors in a hearing process or in a short-list selection process.

The Chair must be able to build and maintain the confidence of survivors and this would mean impartiality, independence and objectivity. Survivors needed to have faith in the Chair and Panel. It was stressed that the Chair and Panel must have no conflicts of interest through links to key institutions, religious organisations or provider agencies which may be the subject of the Inquiry. The issue of links to the establishment was raised in the context of whether the Inquiry should be chaired by a judge. Some survivors considered that the judiciary is too close to the establishment and examples were identified which survivors felt showed how the judiciary is tainted in relation to child abuse issues. Other survivors, however, considered that judges would have the right range of skills and experience that would be required to Chair the inquiry.

The issue of links to the establishment also led some survivors to suggest that the Chair of the Panel should come from abroad; 'Perhaps as far away from Scottish and English shores as possible.' Another perspective on this focused on the importance of the chair being 'down to earth' and 'of the people' so that they could clearly relate to the experience of survivors. A number of survivors identified the need for a gender balance across the Chair and Panel.

Survivors saw it as important that the skills and experience of the Chair and the Panel members were complementary and that there were people with a range of knowledge and qualities appropriate to the remit and scope of the Inquiry.

A number of survivors suggested that it would be beneficial to have a survivor on the panel in order that there would be direct survivor input in the Inquiry. A smaller number considered that this might involve a conflict of interest, and an alternative suggestion was for an advisory panel of survivors.

Survivors considered that listening and communications skills would be crucial.

*I hope the inquiry will be chaired by someone who understands how to listen with respect.*

A range of qualities linked to this were suggested: non-judgemental; compassionate, kind, trustworthy, empathetic, sensitive, perceptive, calm, gentle and supportive.

*It takes a very well rounded individual, able to develop the people skills required, gain trust, and exhibit empathy... Listening is going to be key: so an active listener is required.*

This needs to be linked to the ability to handle large amounts of information and to seek out the truth effectively with forensic, investigative skills. This would suggest experience of undertaking complex and sensitive inquiries or investigations.

Clear knowledge and understanding of abuse were also highlighted as well as understanding of the long-term consequences of abuse and trauma, mental health issues, counselling and support needs of survivors. Knowledge and understanding of both care services and the services which support survivors was required.

Promotion and protection of human rights was emphasised as important along with independence of mind and strength and courage to deal with the issues that will arise throughout the time of the Inquiry, and to meet challenges at the highest level.

A number of names were put forward as potential Chairs of the Inquiry and these included judges, academics, professionals, and others with relevant knowledge and experience. The names of these individuals were shared separately with Scottish Government.

### 3.3 Other considerations

#### 3.3.1 Commemoration

The question of commemoration elicited mixed and often opposing responses from survivors who took part in the consultation. Some survivors felt they did not want to be reminded of past, private events. Others described how they remembered their experiences vividly and constantly, and that a commemoration would not help with this. Conversely, there were many who felt that they would like a place to go to or an event which acknowledges and marks their experiences. It was not always seen as the most important priority.

Responses were also mixed with regard to the form that any commemoration might take. Some survivors considered that a physical commemoration would be most appropriate, such as a garden of remembrance, statue or memorial plaque. Others considered that an annual event where people can reflect on what has happened, perhaps linked to wider awareness and fund-raising for counselling and support services would be beneficial. Some respondents suggested a physical commemoration linked to an annual event.

Suggestions of possible physical commemorations included:

- A memorial garden containing plaques honouring individual people: a calm, happy, safe place where people can talk and contemplate
- A plinth or memorial plaque in Holyrood Park, Edinburgh
- A statue designed by a child
- A playground where children can have fun
- A national monument acknowledging those who have suffered and died
- A simple, beautiful lamp in every region
- A modern art installation situated within the National Gallery
- A display in the Kelvingrove Museum, Glasgow, of survivors' stories; art work and acknowledgements from institutions

Suggestions of possible events included:

- An annual event aligned to National Children's Day
- An annual church service
- A National Remembrance Day, led by survivors and attended by leaders in Scotland
- An annual party for children, which they can attend with their families
- The annual event linked to the wearing of a ribbon to raise funds for counselling and support services
- Individual commemorative events to be held in children's homes and schools

In respect of any physical commemoration, it was felt that this should be located in a place or places where it is easy for people to reach. Edinburgh, Glasgow and Aberdeen were all variously mooted, and there were those who considered that there should be a

commemoration in every region or place where abuse happened. Some survivors stated that it should not be located on Government premises or church grounds. It was expressed that any event-based commemoration should be survivor-led; involving current looked after children in residential care and those from local schools was also felt to be important by some. An annual event found favour with most, although others did not want to be 'constantly reminded' of what had happened.

As touched upon previously, there were those who did not see the value of a physical or event-based commemoration, feeling that any money would be better spent on 'rebuilding lives', empowering and supporting survivors to pursue legal redress or assisting the police to seek out and apprehend perpetrators. A national commitment to enable free and unfettered access to records for any survivors, care leavers and family members was felt by some to be a more useful and fitting gesture, along with a formal apology for past wrongs.

Finally, some expressed that the term 'commemoration' was inappropriate, feeling that (rightly or wrongly) it implied some form of celebration, and that instead it should be termed 'acknowledgement' or 'remembrance'.

### 3.3.2 Survivor Support Fund

The consultation asked about a number of issues in relation to the setting up of a Survivor Support Fund. It asked what the key purpose of the Survivor Support Fund should be, and what additional services it should provide. It asked what the eligibility criteria to access a Survivor Support Fund should be, and who should administer such a fund. Finally, it asked what the barriers to accessing existing services are.

Many survivors framed their answer to the key purpose of the Survivor Support Fund in terms of what it should achieve for survivors in reparation for what had happened to them in childhood:

*To enable a survivor to be the whole person they would have been if the abuse had not happened to them.*

*Closure, and the ability for survivors to thrive and live as much as they can like everyone else.*

Survivors spoke about the need to help them move on from the long-term damage which could affect them physically, psychologically and emotionally throughout their lifetime and said that there must be 'real commitment to the healing process' in order that they could lead as 'normal a life as possible'. The long-term consequences of abuse were highlighted in a number of responses, and linked to the ongoing need for support which required that support should not be time-limited, so that counselling, for example, could continue for as long as it was needed.

A wide range of supports and services were put forward to be provided by the Support Fund. Advocacy was also considered important to help survivors access the things that

they might need; as one survivor put it, 'I didn't know what I needed'. This input was felt to be important to develop co-ordinated support plans. Generally, having support from a key worker or a support worker was thought to be important.

Further information on services for survivors was also needed, for example, through a website and through information phone lines.

A large number of the survivors emphasised that counselling was essential, and this included specialised counselling which would address trauma and abuse, mental health problems and addictions. Similarly, physical health needs needed to be addressed. Many survivors have health care needs and require support on a long-term basis; this could include respite care, outreach and home visits. This could also involve support in housing and housing adaptations to cope with their illness or physical needs. Practical help was identified in order to make up for the missed opportunities, and the freedom to get away on respite breaks or retreats, as well as support for holidays.

Support was needed in relation to education and training, and mentoring and tutoring were suggested as ways that survivors could address the gaps in their education due to their experiences of abuse. Similarly, support in relation to employment was highlighted: job-finding and back-to-work support with trained professionals and guidance, assistance in setting up small businesses, and also support for employers to address the needs of survivors in seeking employment. There was also need for support in accessing benefits and pension advice.

Survivors identified the need for legal support in order to take forward their cases through the civil and criminal courts. This included legal advice and guidance, as well as financial assistance for legal proceedings.

Support for the families of survivors was also felt to be important, particularly given the problems that survivors might have with relationships because of their abuse. Survivors spoke of not telling their families about their experiences, and the impact that this could have on their relationships. Another important aspect raised by survivors was the help that they needed to connect with their families because they had lost contact when they were admitted into care settings. This might involve support with finding their families through records and information about placements, expenses for travel and subsistence when tracking down their records, and also support in maintaining contact with family members who may now be abroad because of child migration. Broader support for social skills and relationships was also identified because of the need to address feelings of isolation.

Support for particular groups of survivors should also be addressed: survivors who have experienced the criminal justice system or prison, learning disabled survivors or lesbian, gay, bisexual or transgender (LBGT) survivors.

Survivors stressed the importance of supporting existing survivor organisations and ensuring that they were funded at the level that was required to meet the needs of survivors. It was suggested that there needed to be an audit of existing services to

identify unmet need. This was particularly related to the geographic spread of services. It was important that all survivors had access to support no matter where they lived in the country, and that locally-based services were available in rural areas as well as the cities. It was acknowledged that this might need new ways of thinking about how support services were provided.

As well as support from survivor support services and specialist services, it was felt important that the professionals in general services such as the NHS and the Department of Work and Pensions were trained about the needs of survivors. The example of older survivors going into care homes was mentioned, given the potential for memories being triggered, and the need for staff who would be knowledgeable and trained about the complex issues facing survivors and how best to respond to these.

It was stressed that different survivors would have different needs, support services would need to be flexible, and that 'one size doesn't fit all'. Services need to be able to meet the individual needs of survivors and to be survivor-centred. This was linked to the importance of survivors being involved in the design and delivery of services:

*It's important that people are involved; that's more important than anything else.*

This was considered in a number of different ways, such as a conference of survivors and survivor groups to work together and ensure that support is in place. It was seen as important to facilitate the development and expansion of more survivor-led support services, with training and opportunities for survivors to be involved in peer support and 'buddying' or in developing a survivor-led Hub or Community Café which would be able to provide information and advice.

As we saw above, the issue of reparation and compensation was raised in terms of the purpose of the Public Inquiry, and that the InterAction Action Plan addressed reparation in terms of restitution (restoring things that were lost as a result of abuse), rehabilitation and compensation in the context of a National Reparation Fund or Survivor Support Fund. A number of survivors, particularly those who had experienced abuse in care or in institutional settings, raised the issue of compensation in relation to the discussion of the Survivor Support Fund. They considered that the Survivor Support Fund should include compensation in order, in as much as it is possible, to make up for the long-term consequences of their abuse: 'Money will never erase the past.' Compensation should be fair and proportionate and address the financial hardship of survivors, making up for missed opportunities. This would also allow survivors choice in the way in which they might want to access services.

A number of survivors stressed the urgency of providing reparation and compensation because of the age and frailty of a number of survivors. This was underlined during the consultation period, by the death of a survivor who had been heavily involved in seeking justice for survivors of abuse. This was followed shortly afterwards by the death of another survivor who had attended the engagement events. Some survivors therefore

called for interim payments to be made to survivors with the greatest health needs. As one survivor put it, 'Action, we need action now'.

A number of survivors stressed the importance of providers and institutions contributing to compensation and reparation packages, and not for this simply to fall to Scottish Government.

The consultation asked what the barriers are to accessing existing services and a range of issues were identified by survivors. They spoke of fear, shame and humiliation as a barrier: the fear of disclosure, of being judged, of not being believed, and embarrassment to be seen using the services.

It was stated that there was a lack of information on services and a lack of understanding of those services which did exist. There was uncertainty about the impact of the Survivor Support Fund. Services were not equally available across Scotland and there was a lack of consistency of service provision. Services were also restricted by lack of staff time and resources so that waiting lists and time limits to services were barriers. It was felt that many survivors are unable to receive face-to-face support or they have lengthy waits to access support, and then they may be able to receive only eight support sessions. Time is important for survivors to build a trusting relationship with support staff, and this is difficult when support is time-limited.

Survivors also identified the lack of suitably trained and experienced professionals as providing a barrier to access to services. This, they considered, could lead to indifferent and uncaring responses because professionals did not understand the long-term consequences of abuse.

There was an almost equal split between those who considered that the Support Fund should be administered by the Scottish Government or by a partnership. Some considered that it should have no connection to the Scottish Government and should be independently run, and set up and designed by a partnership. It was also suggested that survivors should lead on this, along with a range of other organisations.

### 3.3.3 Time bar

Survivors were asked about their experiences in respect of raising an action in the civil courts to obtain compensation for their injuries, and, in particular, whether raising an action had been contemplated and what barriers to pursuing an action were faced. Those participants that had attempted to bring claims invariably reported negative experiences linked to the existence of the time bar (as detailed by the Prescription and Limitation (Scotland) Act 1973) and a consequent inability to obtain legal aid.

Discussions and feedback explored the nature of child abuse and the numerous reasons why individuals might not come forward immediately, or within a prescribed time limit, to report their experiences. A range of examples were given to explain this, including the residual trauma precipitated by abuse; feelings of embarrassment and shame; a fear of authority and retribution; a lack of knowledge and education pertaining to their

rights; not realising that what happened to them was wrong; the fear of not being believed when they spoke out; and wanting to leave their experiences in the past and move on with their lives.

As a result, participants overwhelmingly felt that the existence of the time bar is unfair and a fundamental barrier to survivors gaining access to civil justice. Frustration was expressed at the unwillingness of Scottish judges to use their discretionary powers to waive the time bar, with some feeling that raising their awareness of the reasons for non-disclosure might help. However, the majority of participants felt that the time bar should be removed automatically in cases of historical child abuse.

Some survivors highlighted the potential utility of investigating how other jurisdictions have dealt with the issue. The example was provided of Ireland, where the Statute of Limitations 1957 was amended in 2000 to allow cases of historic child abuse to be heard. Similarly, the situation in Canada was discussed, where limitation periods have been removed for different types of abuse.

Equally, it was felt by some participants that the establishment of a suitable, alternative reparations and compensation fund would mean that the time bar would no longer be an issue. The actions of Dumfries and Galloway Council, which set aside funds and gave single, ex-gratia payments to 49 survivors whose accounts were verified against key events, were commended as a model of good practice, and were described by one survivor as 'significant and meaningful'.

Finally, the importance of supporting often very vulnerable individuals through any court process, by the provision of advocacy and counselling services was emphasised.

## 4 Responses from national and local organisations and providers of care and other services

### 4.1 Organisations who responded to the consultation

As with survivors of abuse, organisations made responses to the consultation on the Public Inquiry and other commitments in a number of different ways:

Online response forms and questionnaires

- Autism Rights
- Barnardo's
- Care Inspectorate
- Centre for Excellence for Looked After Children in Scotland (CELCIS)
- Children 1<sup>st</sup>
- Crossreach
- Daughters of Charity
- Health in Mind
- Kingdom Abuse Survivors' Project (KASP)
- NSPCC
- Quarriers
- Renfrewshire Council
- Roman Catholic Church
- Sailors' Society
- Say Women
- Scottish Council of Independent Schools
- Scotland's Commissioner for Children and Young People
- South Ayrshire Council
- South Lanarkshire Council
- Western Isles Rape Crisis Centre
- WithScotland

Email responses

- Izzy's Promise
- Mindspace
- Scotland's National Action Plan for Human Rights Action Group on Justice and Safety
- Scottish Residential Child Care Workers' Association
- Who Cares? Scotland

## Engagement Events

- Barnardo's
- Bishops' Conference Scotland
- Care Inspectorate
- Children 1st
- Clackmannanshire and Stirling Councils
- Conference of Religious in Scotland
- Cornerstone
- Church of Scotland
- Daughters of Charity
- Dumfries and Galloway Council
- East Ayrshire Health and Social Care Partnership
- East Dunbartonshire Council
- Glasgow City Council
- Health in Mind
- Hillside School
- In Care Survivors Service Scotland
- Moira Anderson Foundation
- NSPCC Scotland
- Open Secret
- Quarriers
- Renfrewshire Council
- Rossie Young People's Trust
- Scottish Commissioner for Children and Young People
- South Ayrshire Council
- St Mary's Kenmure
- West Dunbartonshire Council
- West Lothian Council

In total, 41 separate organisations provided responses to the consultation. In addition, four professionals responded to the consultation as individuals and these responses have been included in this section. It can be seen that the organisations which took part in the consultation included survivor support organisations, present and past providers of care services, and other relevant organisations.

## 4.2 Responses regarding the Public Inquiry

### 4.2.1 What should the Inquiry seek to do?

Overall, representatives of organisations agreed with the suggested purposes of the Inquiry. As with survivors, some particular purposes for the Inquiry were given more priority than others. Two organisations, in commenting on the requirements for an ‘effective’ Public Inquiry, stated that it must be ‘independent’, ‘impartial’, ‘open to public scrutiny’, and ‘involving of survivors’.

Organisational representatives agreed that the Public Inquiry should hear the experiences of survivors of abuse, and bring these experiences to light in a meaningful way. It was suggested that the Inquiry should be ‘victim-focused’ and ‘survivor-led’, in the sense that their concerns should be pre-eminent. One organisation stated that the Inquiry should have fact-finding capabilities that enable it to identify and classify the mistreatment reported to it, to determine the identity of the individuals and institutions allegedly responsible, and whether the practice was systematic.

Representatives also considered that hearing the perspectives of care providers about their past duty of care was essential. It had to be based on an honest approach, and not a defensive approach ‘tied up in legalities’, so that the historical legacy and liability of organisations was identified. It was felt important to ascertain why abusive practices were accepted and why this was allowed to continue. It was important to identify the dynamics of disclosure and how children’s attempts to communicate about abuse have been ignored or wrongly interpreted.

Some representatives felt that those who gave the perspectives of providers of care should be in a position to speak for the organisation and be accountable for the organisation. Organisational representatives also acknowledged that this was not just about providers of care services but also about the role of the state, and the systemic failings of the state over time. The response of organisations to cases of abuse, such as providing access to justice in practice, should also be considered. One organisation considered that the Inquiry should address ‘the context, causes, incidence and consequences of historical abuse of children in care in Scotland’ in the period under review.

In looking at past care practices, some organisational respondents considered that it was important to understand the context of the time when events happened and were allowed to happen. The example of changing legislation on corporal punishment was given. It was felt that it had to be acknowledged that values have changed and that the Inquiry would need to ascertain the extent of systemic failure or cultural change.

Some organisations considered that there was a role in raising public awareness and understanding about abuse and its impact, and this was also linked to awareness about the current abuse of children in care and their protection, as well as wider child protection issues. The importance of raising public awareness of the long-term

consequences of abuse for survivors and their families was also highlighted, and the impact on, for example, employment and relationships over the lifetime of survivors. Raising professional awareness and understanding of abuse and its impact was also highlighted by some respondents, particularly among front-line agencies. The Inquiry should also raise awareness about the supports and services which are available to adult survivors and their families.

Providing public acknowledgement and validation of experiences of abuse was linked to the regard in which children are held, and whether we listen and believe their accounts. This was also seen as part of the role of creating a public record of historical child abuse. One respondent suggested that there needed to be clarification of the term 'public acknowledgement' so that it is understood as 'acknowledgement *in public* from the institutions or organisations with a duty of care', rather than 'acknowledgement... from the public at large.'

Identifying how risks have been reduced and what further changes are needed to improve safeguards for children was considered to be essential. Looking at the lessons learned and understanding where learning has taken place and put into practice is crucial in keeping children safe. Training and awareness of risks is very important, as is the need to enable children to report abuse and to be listened to when they raise such issues. However, one respondent suggested that this should not be framed in terms of risk but rather to changes 'in practice'. This would allow consideration of what further changes in legislation, policy, procedure and practice are needed to protect vulnerable children and young people in care. It was also stated by one organisation that the changes and improvements in care settings need to be acknowledged, and they expressed concern about the potential for the focus on historic abuse to further stigmatize children and young people who are in care, and also impact negatively on those who care for them.

A number of other outcomes were identified and these were:

- Considering the recovery and support needs of survivors and making recommendations about how these can be met
- Agreeing a compensation framework
- Addressing justice for survivors and passing information on crimes to the police
- Identifying and reporting any current child safety concerns relating to individuals or groups
- Addressing issues of records and record keeping
- Identifying why key lessons have not been learned

- Providing confidence that the current system is fit for purpose and children in care can expect to be safe and have their rights respected
- Providing confidence that we are not afraid to look at what has happened in the past to ensure that learning is taken and applied to keep children in care safe

Organisations also questioned the relationship between the National Confidential Forum and the Inquiry, and one raised concerns that survivors and survivor agencies are not clear what the fundamental difference between the two is, and that this needs to be clarified so that the potential for duplication is avoided.

#### 4.2.2 Setting the terms of reference for the Inquiry

##### a) *Timeframe*

In relation to a date before which the Inquiry would not consider historical abuse, most representatives of organisations agreed that all cases should be considered, and they agreed with the suggestion that this would include all cases 'within living memory'. One respondent suggested that the date could potentially be anywhere between 1950 and 1970, given a concern about being able to provide a balanced picture because alleged perpetrators and supporting documentation are not available. Another organisation suggested that the date should coincide with the point of the regulation of care in legislation, for example, the Children and Young Persons (Scotland) Act 1937.

There were a number of issues identified in terms of defining the point of time before which cases might be put before the Inquiry. Some representatives considered that it should be defined in terms of the individual, so that any person who is no longer a child who has experienced abuse as a child could be considered by the Inquiry. It was acknowledged that care would need to be taken to ensure there was no overlap with current child protection or police investigations.

Other representatives discussed this in terms of the legislative changes mentioned in the questionnaire, either the Children (Scotland) Act 1995 or the Regulation of Care Act 2002, and a number suggested 2002. Others considered that such dates were arbitrary and if the date were linked to a legislative change, this might suggest that this change had solved the problem of the abuse of children in some way. The significant gap between 2002 and the present was also highlighted. For this reason, two respondents suggested that the date should be 2010. Another suggested that the date should be 2014.

Some representatives, as survivors had, questioned the whole issue of using the term 'historical'. They argued that the focus should not be on whether cases were historical or not but whether they were child abuse. For survivors of abuse, it was argued, the abuse is still very much in the present. The point was also made that child abuse is not only a historical matter and children are still being abused in Scotland today. Some organisations considered that the Inquiry should also have a clear focus on the present

and the prevention of abuse. While it might be necessary for practical reasons to have an upper time limit, this runs the risk of creating another barrier preventing survivors from accessing the Inquiry.

### *b) Types of Abuse*

As we saw above, the consultation question about which types of abuse should be covered by the Inquiry stated that the 'starting point is that the Inquiry should cover all forms of abuse: physical, sexual and emotional as well as neglect'.

Most organisational representatives considered that the Inquiry should cover all forms of abuse, physical, sexual, emotional abuse and neglect. Other forms of abuse such as medical experimentation and abuse were mentioned. Representatives highlighted that there are often links between different types of abuse and that survivors can experience multiple forms. It was acknowledged, however, that certain types of abuse and events might be more difficult to establish after a lengthy period of time. One organisational representative considered that the Inquiry should focus only on sexual abuse, feeling that the remit would otherwise be too wide to manage and it would not be possible to have the necessary depth of analysis to address the issues.

Some representatives considered that the consequences of abuse and the impact of multiple types of abuse are the key issues, rather than drawing distinctions between different types of abuse. In addition, it was suggested that the Inquiry should include all kinds of perpetrator/victim relationships, including peer-to-peer abuse as well as abuse of children by adults. It was also felt that a consideration of power imbalances, along with the organisational and systemic deficiencies that enabled the abuse is important.

However, it was felt that appropriate consideration should be given to the social standards and legal context of the time periods under scrutiny. As we saw above, the changing legislation on corporal punishment was identified as an example, and it was suggested that certain acts should not be considered abuse where they fell within 'accepted norms' of physical chastisement in place within the legislation at the time.

Concern was expressed by one representative that the experiences of certain individuals (for example those with autism or other disabilities) should not be excluded because they are unable to express what has happened to them. As such, it was suggested that a review of the records pertaining to those who were placed on hospital wards or other such placements attached to mental hospitals, along with the registers of deaths and accidents that were compiled at the time, should be undertaken. Similarly, in accordance with the principle of ensuring non-discrimination, another representative expressed that the Inquiry should include a commitment to provide sufficient human and infrastructural resources, and communication strategies to ensure that under 18s, minorities, the elderly, people with disabilities, illness, literacy problems or who need language interpreters (e.g. Gaelic), and other groups requiring assistance can participate in the Inquiry and have access to its findings.

### *c) Nature of abuse*

The consultation asked about the nature of abuse, that is, circumstances where the culture of an organisation or care setting condoned or failed to act to deal with abuse, and whether the Inquiry should include 'acts of omission'.

In line with the need to establish the context and causes of abuse, most representatives agreed that the Inquiry should include 'acts of omission'. Responses highlighted that evidence from *Time To Be Heard* (2011) and from many previous inquiries and research tells us that children do report, but are typically not listened to, not believed, ignored, or punished for speaking out. As a result of this, acts of omission, including failure to act, have been a consistent theme in investigations and inquiries into abuse in care settings in Scotland.

Organisational culture which allowed abuse to happen and continue was considered to be an important aspect which needs to be considered, as was scrutiny of the decisions taken by social services in relation to disclosure of abuse. Wider systemic abuses such as children being discharged from care at too young an age, or educational failings were also felt to be important areas for exploration. It was considered that every effort should be made to explore as wide a range of experiences as possible.

It was expressed that there should also be consideration of acts of omission not only by organisations with a direct duty of care to children, but of criminal justice agencies with a responsibility to investigate and take proceedings forward (the police and Crown Office). Scrutiny of the handling of reported crime by police and prosecutors, based on the experiences of victims, was therefore considered to be of value.

### *d) Types of Care Settings*

As we noted above, the consultation asked about the types of care settings that should be included in the Public Inquiry, and whether it should focus on the principle of including 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'.

Representatives of organisations considered that the Inquiry should include all forms of public, private and voluntary care settings: residential care, foster care, formal kinship care, and instances where children were 'looked-after' at home, along with 'day-care', short-break and respite provision for children with disabilities. While some felt that institutional abuse should be the primary consideration, others felt it important to include those who were placed in foster care or boarded out, who are often isolated in a way that those who experienced group care are not. Some also considered that the experiences of those who had been adopted should be included.

Some representatives considered that in order to encourage as many survivors of abuse as possible to come forward, the range of settings should be wider and include abuse that took place while a child was in the care of any public organisation or body such as

the police, the youth justice system, the education system, or hospitals. For example, one participant advocated an exploration of the experiences of children who were previously regarded as 'mental defectives', 'mentally disturbed' or 'maladjusted', who were placed, often indefinitely, on the wards of or in units attached to, mental hospitals.

There was also discussion of whether the experiences of those living at home who were abused by an individual such as a doctor, a member of the clergy, teacher or voluntary group leader should be included. Abuse which took place when the child had been formerly looked after and returned to family was felt by one representative to be an important area for consideration and from which valuable lessons could be learned. Some participants felt that abuse which took place in private/independent boarding and non-boarding schools should come within the remit of the Inquiry, stating that although children were there through parental choice, the state has a responsibility to ensure that minimum standards are met.

There was debate about whether the scope of the Inquiry could become too wide, thereby moving the focus away from the experiences of children who had been abused in care settings. Conversely, it was felt that to exclude such accounts would send out the wrong message to those who were abused under such circumstances, and that important lessons need to be learned from their experiences. It was felt that the needs of any who are excluded should be taken into account, along with options to address them.

#### *e) Timeframe for Reporting*

Representatives considered that it was important to proceed in a time frame that is not too long and meets the needs of survivors. The Inquiry needs to have a reasonable and realistic timescale. It was felt that it should report when it says it will and not drift. That said, there were a range of suggestions about how long it should take: within one year, three years, two to five years, or five years.

Whatever the timescale, it was felt that this would need to be kept under review by the Chair of the Inquiry, with explanations given for any slippage.

There was a lot of discussion about how the scope of the inquiry would impact on its timescale. This focused on the scope of the inquiry and, in particular, the range of settings which were included, acknowledging that the wider the remit of the Inquiry, the longer it would take to report. Against this, it was suggested that a lot of issues had been reviewed already in the various inquiries which had taken place in Scotland.

#### *f) Definition of a child*

As was the case with survivors, most organisational representatives agreed that for the purposes of the Inquiry, the definition of a child should be anyone aged 18 years or under. While there was discussion of the changing legal definition of a child, and

particularly around whether the age might be defined as 16 years or under, no-one made a definitive statement that this age should be used.

#### *g) Where the abuse happened*

We saw above that the consultation asked whether the scope of the Inquiry should be limited to where abuse took place in Scotland and where those who had the responsibility for making the arrangement for the safeguarding of children were located in Scotland.

Representatives agreed with this in terms of where the abuse took place in Scotland and the arrangement for the safeguarding of children was in Scotland. Organisational representatives identified similar examples in relation to children moving either into or out of Scotland and included the issue of child migrants, where the abuse might have taken place abroad but organisations in Scotland were responsible for the relocation. Similarly, the issue of organisations which placed Scottish children in other countries in the UK was considered.

Concern was expressed by some that whatever the final criteria for inclusion are, survivors must not simply be refused consideration by the Inquiry, but that arrangements should be made for their voices to be heard elsewhere and they should be signposted to appropriate support and recovery services. Indeed, it was felt by some that it is important for the credibility of the process that the consideration of such evidence by other Inquiries is not 'left to chance' and that the Scottish Government should work closely with the Governments and police in other UK jurisdictions to ensure a 'robust and meaningful' sharing of evidence.

#### 4.2.3 What should we look for in a Chair and Panel?

The consultation set out the process of appointment of a Chair to the Inquiry and the possibility of appointing a Panel or Assessors to support the Chair. It asked respondents to give their views on the attributes that the Chair and Panel should have, and, as we saw above, some suggestions were set out in the consultation. Representatives from organisations agreed with these as important attributes of the Chair and Panel. In the discussions about the attributes of the Chair and Panel, representatives reinforced the importance of these issues and also raised a number of other issues.

The Chair and Panel need to be survivor-centred and credible to survivors and inspire public confidence particularly among survivors. This was linked to the importance of being independent with no conflict of interest. Independence from government, establishment figures and organisations who provide, or provided, care for children was highlighted as important. It was noted that Scotland was a small country and there would be benefits in looking abroad for a Chair. It was suggested that the Chair would need to have a high reputation for behaving with integrity, for advocating for children and vulnerable people, and human rights.

The Chair and the Panel would have a range of qualities and the Panel would be able to provide additional expertise. Knowledge of care in the past and the issues and experiences of survivors and providers was considered important as was an understanding of the difficulties experienced by children and adults around disclosure. They would also need a clear knowledge and understanding of trauma and abuse, and the impact of trauma. They would need an understanding of the complexities of confidentiality. One representative considered that there should be a representative of survivors on the Panel. They would need to be able to understand the context and complexities of care for children over time. They would need the capacity to engage with those giving testimony, and be open and approachable, with good listening skills and empathy. They would have to be non-judgemental, show emotional intelligence and be flexible. They would also need to be self-aware and resilient. The Chair would also need to be able to provide leadership and to be decisive in taking the Inquiry forward.

Some representatives highlighted the importance of a gender balance across the Chair and Panel.

### 4.3 Other considerations

Some organisational representatives highlighted the point that the Inquiry is only one component of an effective investigation and remedy for survivors, and that other aspects of the InterAction Action Plan must be progressed alongside the Inquiry and not delayed until the conclusion of the Inquiry.

#### 4.3.1 Commemoration

Representatives of agencies considered that any form of commemoration had to be survivor-led and that, while individual providers may want to engage with survivors regarding the form that any commemoration might take, ultimately, the final decision should be made by survivors. The representative of one organisation considered that 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', thus implying that once historical abuse has been 'dealt with' we can all move on, which is clearly not the case for children who are still experiencing abuse.

Some respondents felt that a physical commemoration, such as a 'peaceful' garden of remembrance or a statue would be most appropriate. It was suggested that this could be situated in Parliament or at another prominent location in Scotland, or that there could be more than one commemoration, situated in a number of locations. It was felt that any physical commemoration should be highly visible, in order to counter the invisibility of those who were abused.

Others considered that an annual event linked to training and wider 'safeguarding' / awareness-raising (including the wearing of a ribbon or pin badge) would be beneficial. A national service of commemoration attended by Scottish Government representatives and civic leaders as an acknowledgement of collective societal responsibility, with local

events across the country to enable maximum participation was also suggested, as was a prayer service of reconciliation.

Further ideas included an annual award for a person or project championing and working towards children's rights and the prevention of abuse. A book of poems written by Scottish poets was also suggested, along with a collection of art work and stories relating to the pertinent issues.

Some felt that a one-off event would be better, followed by help for survivors to recover and 'get on with their lives'. Indeed, a commitment to ongoing support for survivors via the provision of essential services, offering them the opportunity to reconnect to their communities and recognition that their voices had been heard, was felt to be the most fitting commemoration by one provider, while another suggested that the development of Centres of Excellence to provide peer support and counselling;, drawing on national and international best practice in mental health and therapeutic interventions, would be a valuable and lasting legacy.

#### 4.3.2 Survivor Support Fund

The consultation asked what the key purpose of the Survivor Support Fund should be, what additional services it should provide, what the eligibility criteria should be, and who should administer such a fund.

There was overwhelming support for a Survivor Support Fund from representatives of organisations. It was recognised that any plans for such a support fund would need to be person-centred, address the impact of abuse on each person, and be dependent on individual circumstances. It should be handled sensitively and in a 'dignified' way. It was suggested that the principles of Self-Directed Support could be applied, so that survivors would be in a position to choose services themselves. They will have different preferences for the nature of support that they wish to access: there was support for the development of advocacy services to assist survivors in assessing their needs and to ensure that they were able to access appropriate services.

Representatives of organisations considered that the Support Fund should ensure access to support in all its forms covering: counselling, mental health and therapeutic resources, medical support for physical and health matters, educational and social support, housing support, legal advice and support, and access to records. Survivors should also have priority in accessing services. It was considered important that specialist support was provided, with staff who understood the impact of abuse and its long-term consequences. The Support Fund should also support the families of survivors. Support should not be time- or resource- limited, and should provide open-ended and long-term support. This is important in order to build the levels of trust for a constructive relationship. Information about the range of services should be made readily available.

There was also a call for the training of staff in general services, both in terms of knowledge and understanding of the experiences of survivors of abuse, and also in prevention work.

Some representatives considered that as well as access to services, the support fund should have a compensation element. This compensation could be used to address a range of things in people's lives, not limited to the provision of services. One representative considered that many survivors would not want to receive compensation from the perpetrator of their abuse, but that a general fund would ease such concerns.

Representatives debated issues about whether there should be a flat rate or tariff for compensation. Questions were raised about how decisions could be made about the level of harm caused by abuse, and how to measure the impact of the abuse suffered.

The issue of the accessibility of services across Scotland was raised; it was stressed that the Support Fund should ensure that services were equally accessible across Scotland, and that as well as funding for national services, there was support for local services and resources. There should be equal access to support regardless of location or financial position.

Some representatives considered that the Support Fund should be administered by a national body or umbrella group but not the Scottish Government. One respondent suggested that a partnership offers greater flexibility to meet local and individual needs. There were different suggestions about the way the Support Fund should be funded. It was considered that the Scottish Government and providers of care services should contribute, although there was discussion about how such contributions would work. One representative suggested that funding could come through some kind of compensation or restitution order applying to those convicted of online sexual offences.

Issues about the funding of such a scheme were raised by some organisational representatives, for example, what about those organisations that do not exist anymore, such as pre-1995 local authorities? Some raised the potential impact of compulsory contributions on some organisations and their current capacity to provide care.

It was felt that eligibility should be kept simple. Some respondents framed it in terms of someone who has experienced abuse in care, where this can be established in a straightforward way. However, it was acknowledged that this evidence is not necessarily available and this should not limit access, and it is important that support should be provided in accessing records or information about time in care.

### 4.3.3 Time bar

Respondents were asked about their experiences in respect of the time bar to civil actions relating to historical child abuse, but there was limited experience of the practice of the time bar. Representatives felt very strongly that its existence is unfair and a real barrier to survivors gaining access to civil justice. The point was made by one representative that, unlike in England where a body of case law is building up, there has not yet been a successful test case in Scotland to challenge the use of the time bar.

It was highlighted that a great deal of child abuse is by its very nature complex, and that as such there are numerous reasons why individuals might not come forward immediately or within a prescribed time limit to report their experiences. A range of examples were given to illustrate the conflicted feelings that victims of abuse might feel, the pressure on them to keep silent, and their suspicion of authority and legal processes. Others highlighted how survivors can repress traumatic experiences (sometimes by the use of alcohol and drugs), only feeling able to disclose later on in life. It was for these reasons that it was suggested that the time bar should be removed completely in alleged cases of historic child abuse and that the Inquiry should endeavour to raise public awareness regarding the factors contributing to non-disclosure.

However, a note of caution was sounded by one representative who suggested that after a significant period of time, lack of information (exacerbated by poor record keeping) may make specific conclusions very difficult to reach, regardless of whether the time bar is lifted. This could result in further disappointment for survivors. Others felt that cases should be assessed on an individual basis, with judges being actively encouraged to exercise the discretion that is currently available to them to overrule the time bar when this is appropriate.

Representatives were also asked to consider in what ways the inquiry might strengthen understanding of how the time bar affects survivors and how the impact might be best addressed. It was expressed by some that the Inquiry will be in a position to collect first-hand testimony of how the time bar has influenced the experiences of survivors and the extent to which it acts as a barrier to justice, to recovery and to the protection of other children and young people, before proceeding to make recommendations based upon this.

## 5 Conclusions

This section draws together the main conclusions from the analyses of the responses from survivors and relevant organisations.

### *What Should the Inquiry Seek to Do?*

There was general agreement by survivors and organisations that the potential outcomes of the Inquiry which were outlined in the consultation were appropriate.

Hearing the experiences of individuals who have been subject to abuse in institutional or other care settings was considered central to the Public Inquiry. Hearing the lifetime experiences of the consequences of abuse in childhood was also considered to be crucial.

Hearing the perspectives of state and non-state providers of residential or other care on meeting their past duty of care was also considered central to the Public Inquiry in order to understand why abuse happened and why it was not taken seriously and dealt with. It was also essential in holding organisations and the Scottish Government to account and achieving justice for the survivors of abuse. This included passing on evidence of criminal activity to the Police.

Creating a national public record of historical child abuse in institutional and other care settings was considered an appropriate outcome of the Inquiry.

Raising public awareness and understanding about abuse and its impact was also considered to be important, as was raising professional awareness of abuse and the experiences of survivors of abuse, particularly for front-line professionals. This was linked to providing an opportunity for public acknowledgement and validation of the experiences of those who had been abused.

Identifying the extent to which risks have been reduced by recent changes to policy, practice and legislation, and deciding what further changes are needed to improve safeguards for children in institutional or other care were considered to be essential.

### *Timeframe*

While a number of dates were suggested by survivors and organisations in terms of how far back the Inquiry should consider cases of abuse, the vast majority agreed that it should consider all cases 'within living memory.'

In terms of the 'upper limit' of the Inquiry, most survivors considered that it should be up to the present, and the date that the Inquiry was announced was suggested by one survivors' organisation. There was less consensus among representatives of organisations, with dates suggested including 1995, 2002, and 2010 as well as up to the present day.

### *Types of Abuse*

Survivors were clear that all types of abuse should be included: physical, sexual, emotional abuse and neglect. Some survivors also considered that these should cover medical abuse, spiritual abuse, systemic abuse and abuse of child migrants. All but one of the organisational respondents considered that the Inquiry should cover all forms of abuse. The exception considered that it should focus on sexual abuse.

Both survivors and organisational respondents highlighted the impact of multiple types of abuse. Some organisational representatives suggested that appropriate consideration should be given to the social standards and legal context of the time, giving the example of corporal punishment and legal changes over time. There was a concern expressed by some survivors that this could minimise what were abusive practices.

### *Nature of Abuse*

Most respondents considered that 'acts of omission' should be included in the remit of the Inquiry and that the organisational culture which allowed abuse to happen was an important aspect of this. The issue of the wider failings of the state in the way allegations of abuse were handled, for example in criminal investigations, was also considered to be of importance.

### *Types of Care Setting*

There were a range of views from both survivors and organisations in respect of the types of care setting which should be included in the Public Inquiry. Some considered that abuse in institutional settings should be the focus of the Inquiry, while others felt it should include all care settings, residential care and foster care. Some included children looked after at home. A significant number considered that the range of settings should also include private/independent boarding schools or community groups such as sports clubs or uniformed organisations. Others also considered that abuse of children in the family home should be considered by the Inquiry.

### *Definition of a Child*

The vast majority of respondents agreed that the definition of a child should be anyone aged 18 years or under.

### *Where the Abuse Happened*

Survivors and organisations agreed that the scope of the Inquiry should be limited either to where the abuse took place in Scotland or where those who had the responsibility for making the arrangements for the safeguarding of children were located in Scotland. It was felt that this took account of situations such as child migration and the placing of children outwith Scotland,

## *Chair and Panel*

A clear range of attributes were identified for the Chair and the Panel by both survivors and organisations.

The Chair and Panel must be able to build and maintain the confidence of survivors and this would mean impartiality, independence and objectivity. It was stressed that the Chair and Panel must have no conflicts of interest through links to key institutions, religious organisations or provider agencies which may be the subject of the inquiry. The issue of links to the establishment also led some survivors to suggest that the Chair or the Panel should come from abroad. Respondents saw it as important that the skills and experience of the Chair and the Panel members were complementary and that there were people with a range of knowledge and qualities appropriate to the remit and scope of the Inquiry. Involvement of survivors was felt by some to be important.

The Chair and Panel need to have good listening skills, and a range of qualities linked to this were suggested: non-judgemental; compassionate, kind, trustworthy, empathetic, sensitive, perceptive, calm, gentle and supportive.

They must also be able to handle large amounts of information and to seek out the truth with forensic, investigative skills. Clear knowledge and understanding of abuse were also highlighted as well as understanding of the long-term consequences of abuse and trauma, mental health issues, counselling and support needs of survivors. Knowledge and understanding of both care services and the services which support survivors was required. There should also be a gender balance across the Chair and Panel.

## *Commemoration*

The issue of commemoration raised mixed views. Some organisations did not respond, indicating that this should be a matter for survivors to agree. Some survivors felt they did not want to be reminded of past, private events. Others described how they remembered their experiences vividly and constantly, and that a commemoration would not help with this. Conversely, there were many who felt that they would like a place to go to or an event which acknowledged and marked their experiences. A wide variety of physical commemorations or events were suggested.

### *Survivor Support Fund*

Many respondents framed their answer to the question about the key purpose of the Survivor Support Fund in terms of what it should achieve for survivors in reparation for what had happened to them in childhood. Advocacy was considered important to help survivors access the things that they might need, as well as information on services.

Most respondents identified that counselling was essential, and this included specialised counselling which would address trauma and abuse, mental health problems and addictions. Physical health needs should also be addressed. Support should be provided in terms of education, employment, benefits, legal advice, housing and practical support. Support should also be provided to families of survivors.

It was considered important that existing services be supported and expanded, and equal access to services across Scotland is important, particularly in rural areas.

Survivors who had experienced abuse in care or institutional settings, as well as a number of organisational respondents, considered that compensation should be part of the Survivor Support Fund. Compensation should be fair and proportionate and address the financial hardship of survivors, making up for missed opportunities. This would also allow survivors choice in the ways in which they might want to access services.

### *Time Bar*

Respondents overwhelmingly felt that the existence of the time bar is unfair and a fundamental barrier to survivors gaining access to civil justice. Most felt that the time bar should be removed automatically in cases of historic child abuse.

Finally, respondents stated that the Inquiry is only one component of an effective investigation and remedy for survivors and that as such, work on the other measures necessary to achieve acknowledgement and apology, reparation, and access to justice should not be postponed until its conclusion, but rather should progress at the same time. There was a call for action and no further delay.

## Appendix 1: Consultation Questionnaire



### 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

<input type="text"/>		
<input type="text"/>	<input type="text"/>	<input type="text"/>
Postcode	Phone	Email

3. Permissions - I am responding as...

Individual	/	Group/Organisation
<input type="checkbox"/>	<i>Please tick as appropriate</i>	<input type="checkbox"/>

**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 for 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

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

## National Inquiry into Historical Child Abuse

### Respondent Feedback Form



## 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 underway.

#### 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?

## **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?**

### **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?

## 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?*

## 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”?

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

## 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 be able to report once it has been set up?**

## 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

### 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?**

## National Inquiry into Historical Child Abuse

### Respondent Feedback Form



## 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?

## 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?**

**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:

**The Scottish Government**

**National Inquiry into Historical Child Abuse**

**Area 2A North**

**Victoria Quay**

**Edinburgh**

**EH6 6QQ**

## About CELCIS

CELCIS is the Centre for Excellence for Looked After Children in Scotland. Together with partners, we are working to improve the lives of all looked after children in Scotland. We do so by providing a focal point for the sharing of knowledge and the development of best practice, by providing a wide range of services to improve the skills of those working with looked after children, and by placing the interests of children at the heart of our work.

## For more information

Visit: [www.celcis.org](http://www.celcis.org)  
Email: [celcis@strath.ac.uk](mailto:celcis@strath.ac.uk)