



The Scottish Parliament  
Pàrlamaid na h-Alba

**Health and Sport Committee**

**3rd Report, 2013 (Session 4)**

**Report to the Justice Committee on  
the Victims and Witnesses  
(Scotland) Bill**

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The Scottish Parliament  
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## **Health and Sport Committee**

### **Remit and membership**

#### **Remit:**

To consider and report on health policy, the NHS in Scotland, anti poverty measures, equalities, sport and other matters falling within the responsibility of the Cabinet Secretary for Health, Wellbeing and Cities Strategy apart from those covered by the remit of the Economy, Energy and Tourism Committee.

#### **Membership:**

Bob Doris (Deputy Convener)  
Richard Lyle (from 16 May 2013)  
Mark McDonald (to 14 May 2013)  
Aileen McLeod  
Duncan McNeil (Convener)  
Nanette Milne  
Gil Paterson  
Dr Richard Simpson  
Drew Smith  
David Torrance

#### **Committee Clerking Team:**

##### **Clerk to the Committee**

Eugene Windsor

##### **Senior Assistant Clerk**

Rodger Evans

##### **Committee Assistant**

Bryan McConachie



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**Health and Sport Committee**

**3rd Report, 2013 (Session 4)**

**Report to the Justice Committee on the Victims and Witnesses (Scotland)  
Bill**

The Committee reports to the Justice Committee as follows—

**SUMMARY OF RECOMMENDATIONS**

- 1. The Committee recommends that the Bill – accepting that it has scrutinised only that part concerning the provisions to establish the National Confidential Forum – proceeds to Stage 2, but draws the attention of the Justice Committee, the Parliament and the Scottish Government to the following points.**
- 2. Justice matters are not within the remit of this Committee but it heard that a lack of remedies, other than acknowledgement, could impact detrimentally on survivors' health and wellbeing. It draws this to the attention of the Justice Committee.**
- 3. The expectations of survivors must be approached with sensitivity and while just being heard and acknowledged might be right for some, others will have wider needs. Accordingly, the Committee welcomes the Scottish Government's participation in the InterAction process, consultation on the time-bar on civil litigation, work undertaken on restorative justice, and emphasis on the Survivor Strategy. It is imperative that this momentum is maintained if the best interests of survivors are to be served.**
- 4. The Committee suggests that links between the NCF and care providers, in the context of policy learning and prevention of the same mistakes being made in care settings now, merit further consideration by the Scottish Government.**
- 5. The Committee welcomes that the Scottish Government has commissioned CELCIS to carry out a piece of work on the suitability of an acknowledgment forum for people who might have experienced abuse in foster care.**
- 6. Many witnesses told the Committee foster care was a serious omission from the coverage of the Forum; among them Kathleen Marshall – the Time**

**To Be Heard report, of which she was co-author, having recommended that foster care be included in the admissibility criteria. It was suggested that foster care was the setting from which we have “most to learn” and one in which children had “suffered just as much”.**

**7. Given the evidence from a series of witnesses – CELCIS, ICSSS, the Care Inspectorate, Who Cares? Scotland, Aberlour Child Care Trust, Barnardo’s Scotland, and the Care Leavers Association included – the Committee recommends that further consideration be given to including foster care in the criteria.**

**8. How participation works in practice, regarding demand to access the Forum from those individuals who do not meet the criteria and the supports to which they are then signposted, is something the Committee would expect the Scottish Government to monitor, especially in the early days of the NCF’s operation.**

**9. As the Scottish Government recognises, access to counselling, therapeutic support, mental health services and advocacy will be essential if survivors are to see the benefits in their health and wellbeing from participation in the Forum. The appropriate services must be available for all who take part in the NCF – whether they are older people, young adults, disabled, living outside Scotland, with mental health issues, or whatever their life circumstances.**

**10. The extent of the knowledge and expertise required of mental health professionals to engage with survivors was a question that arose during the evidence. It would be welcome if the Scottish Government could elaborate on any plans to further develop or “up-skill” the people who will be working closely in support of survivors, whether those taking part in the NCF or otherwise.**

**11. The Committee acknowledges the frustrations of people who have heard promises of support in the past and feel as if they have been passing through “revolving doors” since leaving care.**

**12. The person-centred approach being crucial; the need for survivors to have a choice of supports; a one-stop approach to counselling and advocacy; the case for long-term support – up to two years; the merits of the Towards Healing model (in Ireland); the importance of a continuous relationship support-wise throughout the NCF process; exploration of the links between NCF and care providers, and a Church of Scotland call for guidance regarding the responsibilities of the latter – all are issues drawn from the evidence and set out here for the further consideration of the Scottish Government and others.**

**13. Given that support is so crucial for the health and wellbeing of those who suffered childhood abuse, the Committee seeks also an undertaking from the Scottish Government that it will ensure the availability of services for those who choose to participate in the Forum – so as to be supported**

before, during and after taking part – and more widely still to all adult survivors who may require psychological or counselling support.

14. On balance, the Committee considers the confidentiality aspects as set out in the Bill to be sensible, proportionate and intended to weigh the emotional and therapeutic benefits of participation with the public interest and safety, should information comes to light that indicates an immediate or current risk.

15. The Committee believes the parameters of confidentiality ought to be set out as clearly as possible. Nobody should be expected to take part in the Forum without a proper understanding of the process, including its benefits, outcomes and consequences.

16. The NCF must have operational autonomy if it is to perform its role effectively and with credibility, especially in the eyes of the survivor community. The memorandum of understanding will be vital in ensuring the Forum can carry out its core work as it sees fit while benefitting from the infrastructure, governance and expertise of the Mental Welfare Commission.

17. The Committee welcomes the assurance that those survivors who come forward to participate in the Forum can do so with the clear understanding that they are taking part in the NCF as opposed to a sub-committee hosted by the MWC.

18. Survivors who come forward to participate will expect to recognise their testimony in the reports of the NCF, and the Committee suggests that the coding of testimony as practised in the Irish model – the Ryan report as highlighted by the SHRC – could be explored.

19. The Committee heard that, in addition to the personal and, it is to be hoped, therapeutic value of taking part in the Forum, survivors were often motivated by a desire to contribute to the improvement of the care system for the next generation; the big question being how to shape a system that could properly fulfil the role of corporate parent and provide children in care with the love, nurture and support often absent from their lives.

20. Expectations for the NCF are high. It is the understanding of the Committee that the collecting of personal and historical data, the recording of testimony, and the identification of patterns and trends will be brought together by the Forum and used to inform (via the reporting mechanism) policy and practice, to build a permanent record of life in care, and to enhance public awareness.

21. The Committee welcomes what is envisaged but seeks further detail on how it will work, in particular the influencing of policy and practice (beyond an outline of the reporting process already provided in the Bill and accompanying documents).

## INTRODUCTION

### **Procedure**

22. The Victims and Witnesses (Scotland) Bill (“the Bill”) was introduced on 6 February 2013. The Bill is accompanied by Explanatory Notes (SP Bill 23–EN), which include a Financial Memorandum, and a Policy Memorandum (SP Bill 23–PM).

23. Michael Matheson MSP, the Minister for Public Health (“the Minister”), is the Minister with responsibility for that part of the Bill concerning the National Confidential Forum (“the Forum” or “the NCF”).

24. The Health and Sport Committee (“the Committee”) was designated as a secondary committee for the Bill at Stage 1, reporting to the Justice Committee, which in turn will report to the Parliament.

### **Purpose of the Bill**

25. The part of the Bill which the Health and Sport Committee was asked to scrutinise would, if passed, establish the NCF. As stated in the Policy Memorandum—

“The principal policy objective of this part of the Bill is to offer adults placed in institutional care as children acknowledgement of their experience, including abuse and neglect, through the creation of the National Confidential Forum.”<sup>1</sup>

26. The main section of the Bill with regard to the NCF is Section 26, the provisions of which include—

- establishing the Forum (as part of the Mental Welfare Commission);
- setting out the general functions;
- enabling it to produce reports on its work and any recommendations (but not naming participants or institutions);
- outlining the provision of information about sources of assistance and advice;
- conferring protection from defamation to the members and staff of the Forum and participants.

27. Another key section is Schedule 1A – Part 3 – Eligibility to participate in the National Confidential Forum, paragraph 7(2) of which “provides that any person aged 18 or over, who was placed in an establishment providing institutional care, for any length of time and who is no longer in that care, may apply to participate in the Forum.”<sup>2</sup>

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<sup>1</sup> SP Bill 23 – PM

<sup>2</sup> SP Bill 23 – EN

### Scottish Government consultation

28. The Scottish Government's consultation document on the NCF<sup>3</sup> was issued on 23 July 2012 and the consultation period closed on 12 October 2012. Additionally, events were held in four different locations during August and September 2012 to encourage a more informal input.

29. Individual and smaller group sessions, in Dundee, Glasgow, Oban, Dunoon and Greenock, were also offered to survivors of abuse.

30. Responses were said to "demonstrate the general support which exists for the creation of the NCF and the positive value placed on acknowledgement in contributing to the health and wellbeing of people placed in institutional care as children."<sup>4</sup>

### Policy context

31. In its *Programme for Government 2012-13*, the Scottish Government stated that the creation of the National Confidential Forum was "a central plank of the Government's Survivor Scotland Strategy which seeks to improve the health and wellbeing of all survivors of abuse in childhood."<sup>5</sup>

32. Some of the more recent developments and milestones informing the Bill have included—

- A number of inquiries into abuse in specific institutions have taken place during the last two decades, including children's homes in Edinburgh (1999), Fife (2002) and Ayrshire (2009);
- In 2004, an apology was offered by the then First Minister to those people subjected to abuse and neglect as children in care;
- The launch in 2005 of *SurvivorScotland: a National Strategy for Survivors of Childhood Abuse*;
- Publication in 2007 of the *Historic Abuse Systematic Review* report by Tom Shaw;
- In 2008, Ministers announced the scoping of a Scottish Truth and Reconciliation Forum, subsequently retitled an Acknowledgement and Accountability Forum;
- The announcement by the Scottish Government in 2009 that a pilot confidentiality forum known as Time To Be Heard ("TTBH") would be established;

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<sup>3</sup> <http://www.scotland.gov.uk/Resource/0039/00397630.pdf>

<sup>4</sup> SP Bill 23 – PM

<sup>5</sup> <http://www.scotland.gov.uk/About/Performance/programme-for-government/2012-13/victims-witnesses-bill>

- The Scottish Human Rights Commission's *A human rights framework for the design and implementation of the proposed "Acknowledgement and Accountability Forum" and other remedies for historic child abuse in Scotland* ("the SHRC Framework") was published in early 2010;
- In 2010, TTBH was set up and heard from 98 former residents of Quarriers;
- In Care Survivors Service Scotland was instigated by the Scottish Government in 2010;
- *Time To Be Heard: A Pilot Forum (An Independent Report by Tom Shaw, commissioned by the Scottish Government)* was published in 2011;
- Based on the experience of TTBH, the Scottish Government announced, in 2011, its intention to set up a National Confidential Forum.

33. Jack McConnell, making that apology to adult survivors in 2004, told the Parliament—

"I offer a sincere and full apology on behalf of the people of Scotland to those who were subject to such abuse and neglect and who did not receive the level of love, care and support that they deserved, and who have coped with that burden all their lives...

"From today, I hope they can continue to move forward in their lives, certain in the knowledge that we in the Parliament, on behalf of the people of Scotland, recognise that they were wronged and that we will do more to support them in the future than we have ever done in the past."<sup>6</sup>

34. Looking at the action taken in other jurisdictions, the Scottish Government studied the treatment of adult survivors in Canada, Australia and New Zealand, as well as in Wales and the Republic of Ireland.<sup>7</sup>

35. The Policy Memorandum summarises developments closer to home as—

- In Ireland, between 2001 and 2010, a Confidential Committee was part of the Commission to Inquire into Child Abuse in Ireland;
- The UK Government has no dedicated policy for adult survivors, though two inquiries are underway into alleged abuse in care homes in North Wales in the 1970s and 1980s;
- An Acknowledgement Forum will be part of the Northern Ireland Inquiry into historical institutional childhood abuse.<sup>8</sup>

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<sup>6</sup> Scottish Parliament. Official Report, 1 December 2004.

<sup>7</sup> SP Bill 23 – PM

36. Stories of child abuse, institutional and otherwise, have been high on the UK news agenda; and, in terms of public awareness of the issue, Operation Yewtree and Operation Pallial have received extensive coverage.

### **Committee consideration**

37. The Committee puts on the record its thanks to those who provided evidence to its inquiry into that part of the Bill pertaining to the NCF. Members wish to highlight in particular their appreciation of the contributions from those adult survivors who took part, whether in person or by writing, and for whom the subject of the Bill must carry a powerful emotional resonance.

38. The Committee issued a call for written evidence on 20 February 2013, with a closing date of 9 March 2013. A total of 27 written submissions was received initially in response to the call for evidence, with three late submissions and six supplementary submissions.

39. The Committee's call for written views sought responses to the following themes—

- The functions and powers of the NCF (as set out in the Bill);
- Status of the NCF – housed as a sub-committee of the Mental Welfare Commission – and its independence;
- Support for participants before, during and after their input;
- Any other aspects of the NCF.

40. The Committee agreed a programme of oral evidence sessions comprising six panels spread over four committee meetings and involving a total of 31 witnesses.

41. Extracts from the minutes of all meetings at which the Bill was considered are attached at **Annexe A**. Where written submissions were made in support of oral evidence, they are reproduced, together with the extracts from the Official Report of each of the relevant meetings, at **Annexe B**. All other written submissions are included at **Annexe C**.

#### *Reports from other committees*

42. The Finance Committee notified the Health and Sport Committee on 10 April 2013 that it did not intend to publish a report on the Financial Memorandum of the Bill.

43. The provisions within the Bill for making subordinate legislation were considered by the Subordinate Legislation Committee at its meetings on 26 February and 19 March 2013. Its report to the Health and Sport Committee is attached at **Annexe E**. That report is discussed in detail later in this report.

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<sup>8</sup> SP Bill 23 – PM

## NATIONAL CONFIDENTIAL FORUM

### Background

#### *A National Confidential Forum*

44. That part of the Bill relevant to the NCF provides a framework within which it is intended the Forum will operate. Its functions, described in the Policy Memorandum as “new and distinct”, are—

- To receive and listen, in confidence, to adults who were in care and to offer acknowledgement of their experiences;
- To contribute to the prevention of the future abuse of children in institutional care, via proposals to inform policy and practice;
- To contribute to a permanent record of life in care, enhancing public understanding;
- To signpost support, advocacy, advice and information services to participants and their families.<sup>9</sup>

45. In its scrutiny of the Bill, the Committee has chosen to focus on—

- Functions of the Forum;
- Eligibility criteria for participants;
- Provision of support;
- Issues around confidentiality;
- The status of the NCF (particularly its “operational autonomy”);
- How it reports testimony and other aspects of its work.

46. The following section of the report, the mainstay of the evidence heard by the Committee, addresses the six headings above.

47. It is, however, worth stating that the justice aspect of the discussion around the NCF posed a difficulty for the Committee. On the one hand, the focus of this Committee and its remit must, by definition, be that of health and wellbeing; on the other, a number of witnesses suggested that the absence of an accountability element could itself, for survivors, prove detrimental to their health and wellbeing.

48. Therefore, while the Committee acknowledges that justice matters are outwith its remit, the report does not ignore such points when they are made by witnesses and it is judged that a reasonable link to health matters can be made.

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<sup>9</sup> SP Bill 23 – PM

## Functions

### *Non-judgemental acknowledgement*

49. The Scottish Government states in its Policy Memorandum that—

“...the NCF adds much to existing remedies, services and responses to persons placed in care as children, including those who have experienced abuse. It does not duplicate any current provision and is, in fact, unique in providing the opportunity of non-judgemental acknowledgement and belief.”<sup>10</sup>

50. In its consultation document, *National Confidential Forum – A Consultation on the creation of a Forum for Adult Survivors of Childhood Abuse in Residential Care*, the Scottish Government also said—

“The Forum will be designed to give adults who spent time in residential care as children the opportunity to describe their experience in residential care. The results of the Pilot suggest that this can contribute to their health and wellbeing particularly when the participants are treated with great care and courtesy and have the support they need.”<sup>11</sup>

### *The element of accountability*

51. The absence of a justice dimension in the functions of the NCF was a major point of discussion for many witnesses.

52. David Whelan of Former Boys And Girls Abused (“FBGA”) told the Committee—

“Our position is that there is a role for a National Confidential Forum, but the proposed forum’s mandate and remit do not go far enough. There will be no remedies, no redress and no effective investigations or inquiries under the model.”<sup>12</sup>

53. He added that “although the proposed forum has the acknowledgement aspect, the element of accountability is missing.”<sup>13</sup>

54. Harry Aitken, a former chairman of INCAS, said in a written submission—

“...as a prelude to TTBH in 2008, the Scottish Government conducted a consultation on the basis of “Acknowledgment and Accountability”. The removal of the principle of accountability from the remit of the TTBH Pilot Forum was done without any discussion with survivors, who perceived its removal as hurtful, disappointing and wholly unsatisfactory.”<sup>14</sup>

55. Helen Holland, a co-petitioner, with Chris Daly, of public petition PE1351, “Time for all to be heard”, said—

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<sup>10</sup> SP Bill 23 – PM

<sup>11</sup> Scottish Government. *National Confidential Forum – A consultation for Adult Survivors of Childhood Abuse in Residential Care*.

<sup>12</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3550.

<sup>13</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3551.

<sup>14</sup> Harry Aitken. Written submission to the Health and Sport Committee.

“...it is regrettable that, 11 years on, we are still talking about the issue, given that a number of survivors have already died, having seen no justice whatsoever. We are talking about child abuse, which is a crime. It is not a health issue, it is a justice issue.”<sup>15</sup>

*We are still children of the state*

56. Helen Holland expressed concern that the NCF would be a model that “fails”<sup>16</sup> if people who might have suffered years of abuse, resulting in “major issues with trust”<sup>17</sup>, were expected to benefit from relaying their experience to people they had never met before, for just a few hours—

“That is why I feel that the confidential forum is flawed. As a stand-alone entity, it will not meet the survivors’ needs. If it incorporates the other things – that is, the human rights framework – I think that there is work that can be done there”.<sup>18</sup>

57. Having been campaigning for change for 12 years, Ms Holland made a plea for urgency—

“A number of survivors have died since the start of the process...The state let them down as children. We were children of the state and we are still children of the state, although we are adults now. The people who died were denied the right to have their voice heard. Please do not deny people that right any longer.”<sup>19</sup>

58. David Whelan said—

“The basis of Time To Be Heard was that people were not entitled to a remedy. Tom Shaw came out clearly and said that it would not result in compensation, reparation, redress or remedy. However, a number of survivors had such expectations.”<sup>20</sup>

59. He stated the case for a wider approach than the one currently set out in the Bill—

“NCF is a therapeutic model. We believe that there should be a number of elements to the process, with perhaps the NCF sitting at the top and then an investigation and research element. The investigation element should have certain statutory powers, if required, to get people to come to it and to get access to documents, but it should be inquisitorial rather than adversarial.”<sup>21</sup>

60. Mr Whelan added—

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<sup>15</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3551.

<sup>16</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3553.

<sup>17</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3553.

<sup>18</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3554.

<sup>19</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3554.

<sup>20</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3559.

<sup>21</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3564.

“Some people might just want to go to the NCF and say, “I have told my story. I have got my support. I am happy.” Some people might want additional elements.”<sup>22</sup>

*Where there is knowledge, there must be responsibility*

61. Helen Holland suggested that, in the past, when people had not known the full facts about, or extent of, the abuse of children in care, it was possible not to have to take responsibility. That, she said, was no longer the case—

“...where there is knowledge, people need to take on board the responsibility, and that is what we are asking people to do. We are asking the Government to take on board responsibility for the whole issue. If it takes on board only the confidential forum, it will deny the survivors who do not want to go into the therapeutic system the right to justice.”<sup>23</sup>

62. She told the Committee—

“It is just as unhealthy for someone who wants justice to be denied the right to it as it is for someone who wants a therapeutic process to be denied that...Rather than acting in a justifiable way towards one person and in an unjustifiable way towards another, the Government needs to bring the whole lot together.”<sup>24</sup>

*The wider strategy*

63. Chris Daly, co-petitioner with Helen Holland, said—

“...the NCF is only one remedy. It may be therapeutic and cathartic for some, but the SHRC framework covers all the remedies that have been discussed throughout the years...Although the NCF will be helpful for some, it is important to look at the bigger picture.”<sup>25</sup>

64. That bigger picture was a theme picked up by other witnesses. Jennifer Davidson of Centre for Excellence for Looked After Children in Scotland (“CELCIS”) was asked to what extent the NCF would meet the needs and wishes of survivors—

“...a portion of those needs may well be met by the National Confidential Forum, which is based on Time To Be Heard, but we also need to look at the wider strategy for all the needs of survivors. I suggest that what is proposed is perhaps a narrow way of meeting their needs.”<sup>26</sup>

65. Kathleen Marshall, TTBH Commissioner and former Children’s Commissioner said she that, for some, the lack of a justice component was “an emotive issue”<sup>27</sup>—

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<sup>22</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 26 March 2013, Cols 3564-65.

<sup>23</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 26 March 2013, Col 3566.

<sup>24</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 26 March 2013, Col 3566.

<sup>25</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 26 March 2013, Col 3572.

<sup>26</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 16 April 2013, Col 3588.

<sup>27</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 16 April 2013, Col 3588.

“Many of the people who came to speak to us just wanted to tell their experience; at that point, that was what was important to them. However, that is not to say that, later on, they will not be able to engage with the wider agenda for something more.”<sup>28</sup>

66. Alan Miller provided some background on the SHRC Framework—

“...the Scottish Government asked the Scottish Human Rights Commission some years ago to present a framework for both acknowledgement and accountability. We looked at international human rights law, domestic human rights law and international best practice, and presented a comprehensive framework in which various initiatives could be taken to deal with both acknowledgement and accountability.”<sup>29</sup>

67. He outlined a piece of work called the InterAction, a process being led by SHRC and CELCIS and involving survivors, the Scottish Government, local authorities, religious orders and others, the purpose of which was to explore how justice could be accessed by survivors.

68. Professor Miller said—

“It is also exploring the state’s obligation to carry out proper investigations to learn the lessons, to ensure that there can be no repetition and to ensure that those who should be held to account for serious abuse will be.”<sup>30</sup>

69. He also told the Committee—

“We see the National Confidential Forum as meeting some of the need for satisfaction of some survivors. Possibly – I hope that this will happen – it will have some therapeutic element, although others might contest that. However, it is part of a broader package that needs to be taken forward.”<sup>31</sup>

70. CELCIS’s Moyra Hawthorn spoke of her involvement in the evaluation of TTBH, and being a consultant for the InterAction—

“Feedback from participants was that Time To Be Heard included some very positive components, but people also said that they were seeking a wider range of remedies. Therefore, it is difficult to see the National Confidential Forum in isolation without looking at other remedies such as reparation and access to records. We really need to see the National Confidential Forum within that bigger picture.”<sup>32</sup>

*There are people who need the Forum now*

71. Kathleen Marshall stated—

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<sup>28</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Cols 3588-89.

<sup>29</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3589.

<sup>30</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3589.

<sup>31</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3589.

<sup>32</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3589.

“...while I acknowledge the need for a wider strategy, I would not like the National Confidential Forum to be held up for that...there are people who need the Forum now.”<sup>33</sup>

72. In a written submission to the Committee, the Chief Executive of Sacro reported, based on experience of providing a restorative justice service as part of TTBH, that—

“...survivors of abuse who worked with us frequently described feelings of invisibility, of not having their experiences recognised...By recording and acting as a depository for these stories and histories, the proposed Forum would be an important source of validation for survivors.”<sup>34</sup>

*Source of the tension*

73. Jennifer Davison of CELCIS talked about the “tension” that was informing views regarding the Forum—

“...it would have made much more sense if a wider strategy had been laid out from the very beginning. We would have been much more comfortable with moving the idea of the Forum if other remedies for justice were also available. Ultimately, the source of the tension is the lack of justice remedies.”<sup>35</sup>

74. SHRC’s Duncan Wilson suggested that the link between the confidential and investigative elements was crucial, contrasting the NCF approach with the one taken in Northern Ireland—

“That is where the anomaly in our process is at its sharpest. Few, if any, equivalent processes around the world have focused solely on a confidential committee without additional elements, such as addressing the limitations legislation on civil litigation...or having an investigations or inquiry model and/or other options such as a reparation fund.”<sup>36</sup>

75. He added that Scotland had not taken some of the other measures that had been used in other countries, notably the inquiry and investigation model that was currently being set up in Northern Ireland or a crime commission such as is being established in Australia.”<sup>37</sup>

76. His colleague, Professor Miller, warned against taking an approach that was too narrow or rigid in what it could offer survivors—

“The system must be adapted so that individual survivors can choose whether they want criminal proceedings to be initiated, whether they want simply a confidential forum in which that does not take place or whether they

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<sup>33</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3590.

<sup>34</sup> Sacro. Written submission to the Health and Sport Committee, V&W012.

<sup>35</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3606.

<sup>36</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3607.

<sup>37</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Cols 3607-08.

want reparation, an apology or civil litigation. The system must be person-centred; it should not be the other way round.”<sup>38</sup>

77. The individual, he suggested, should be able to choose what was best for their needs, concluding that was the tension “in having only one door and not a series of doors from which the survivor can choose in the knowledge of what is on the other side of each door.”<sup>39</sup>

*Giving people a voice*

78. Alan McCloskey gave the Victim Support Scotland perspective—

“A Forum gives people a voice. For some it will be seen as empowering – that is hugely significant – but there will be others who want to come into the Forum to have their say and it might not be enough for them; there might be something missing, they will feel that they have had their say – but then what? What is next? That is the gap.”<sup>40</sup>

79. Similarly, Gerry Wells of Quarriers told the Committee that while Time To Be Heard and the National Confidential Forum were about acknowledgement, Quarriers recognised that, for many, that did “not go far enough in addressing the trauma of their abuse.”<sup>41</sup>

80. He recommended other care providers should “engage with the process” and remarked that it was “not one to be afraid of.”<sup>42</sup> Richard Crosse of CrossReach/Church of Scotland also highlighted that link but pointed out that perhaps one thing that was missing in the structure as it was presented in the Bill was “the link between the National Confidential Forum and the care providers.”<sup>43</sup>

*A range of outcomes*

81. Mr Crosse also talked about “a range of outcomes” that were not just about being heard or acknowledged—

“Some survivors might require professional counselling...Others might seek reassurance that the person whom they reported as having harmed them is not in a position to harm others today, and others still might want an investigation into their concerns or referral to the police, if a criminal matter was reported.”<sup>44</sup>

82. He went on to say that while CrossReach/Church of Scotland supported the setting up of the National Confidential Forum, it believed that the links between the Forum and the care providers needed to be further developed “so that survivors feel that their wider range of needs is met.”<sup>45</sup>

83. One view, he suggested, was paramount—

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<sup>38</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 16 April 2013, Col 3611.

<sup>39</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 16 April 2013, Col 3611.

<sup>40</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 16 April 2013, Cols 3615-16.

<sup>41</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3638.

<sup>42</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3638.

<sup>43</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3640.

<sup>44</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3640.

<sup>45</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3640.

“Survivors will judge the process, the Bill, the Act, and the National Confidential Forum on the personal outcomes for them. Just being heard and acknowledged might be exactly right for some, but others will have needs that must be met, probably by care providers, support groups and others.”<sup>46</sup>

84. In Care Abuse Services (“INCAS”) stated, in written evidence, its agreement with the argument that there was a “deficiency” in thinking behind the NCF and how it could link to care providers.<sup>47</sup>

*The needs of all survivors*

85. Barnardo’s Scotland had participated in the first InterAction meeting and found it a positive experience. Richard Meade told the Committee—

“It is important that we look at that group, its work and the action plan that it is looking to produce as a good way forward, so that all survivors’ needs – not just the needs of the survivors who would be helped by the NCF as it is currently proposed – are met as part of the programme.”<sup>48</sup>

86. Zachari Duncalf of the Care Leavers Association was concerned for the mental health of survivors if access to justice were seen to be side-lined—

“Without redress or access to justice...people have been re-traumatised and the process has affected many of the survivors who have fought long and hard to access those areas. There needs to be clarity about what the National Confidential Forum is and what it is not, what can be offered and what is not being offered”.<sup>49</sup>

87. Who Cares? Scotland took a sanguine view of what the future might hold for the Forum. Duncan Dunlop said—

“We need to look at the Forum as a way of giving a voice to people who have been through our care system....helping them to gain closure. However, this work is also about preventing young people who go through the system in future from going through the same experiences and being scarred as individuals. Over time, the Forum may evolve, grow and develop from primarily being there for the older generation”.<sup>50</sup>

88. Ms Duncalf spoke about the years of campaigning by survivors and the need to get things right from the beginning with the NCF—

“...we must have access to services, to outlets for redress and to all sorts of different things including justice...it must be done well so that it does not

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<sup>46</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3640.

<sup>47</sup> INCAS. Supplementary written submission to the Health and Sport Committee.

<sup>48</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3641.

<sup>49</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3655.

<sup>50</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3667-68.

become another element of the re-traumatisation that may happen as part of the process.”<sup>51</sup>

89. The Minister for Public Health, referring to the health benefits of the Forum, said—

“This aspect of the National Confidential Forum stems back to work arising from Tom Shaw’s review of issues to do with abuse in care settings. That highlighted that acknowledgement is a valuable therapeutic tool, and there have been calls for a number of years for a means to be established by which acknowledgement could be provided and recognised, as it has a health and wellbeing benefit.”<sup>52</sup>

90. On the question of a justice component, he told the Committee—

“My colleagues on the justice side have been looking at issues such as the time bar. The consultation on that closed just last month...Although we are talking about a health response to particular issues to do with abuse in care settings, that does not mean that that is it.”<sup>53</sup>

91. The Minister also referred to the InterAction—

“The National Confidential Forum allows us to move on with the health aspect of that. I have no doubt that some of the things that will come from the InterAction will have a justice focus. They can be addressed at that particular time, but that does not preclude our being able to move on with the creation of an acknowledgement Forum”.<sup>54</sup>

**92. The Committee notes that the evaluation of the Time To Be Heard pilot indicated the therapeutic value of an acknowledgement forum in giving people the opportunity to be heard, believed and perhaps even to attain a sense of validation in a safe, confidential and non-judgemental setting.**

**93. It recognises too that, for a number of those from whom it received evidence, the remit of the National Confidential Forum does not go far enough and, amongst those, there is a widespread desire to see the SHRC Framework fully implemented.**

**94. Justice matters clearly lie outwith the remit of this Committee. However, the Committee received evidence that a lack of remedies, other than acknowledgement, could impact detrimentally on survivors’ health and wellbeing. The Committee therefore draws this point to the attention of the Justice Committee.**

**95. The Committee notes the “tension” described by several witnesses in their assessment of the NCF, something attributed to the lack of a justice dimension. The Committee also notes the Scottish Human Rights**

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<sup>51</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3670.

<sup>52</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 30 April 2013, Col 3694.

<sup>53</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 30 April 2013, Col 3695.

<sup>54</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 30 April 2013, Col 3695.

**Commission's statement it could not identify another initiative in the world that dealt only with acknowledgement and no other elements of remedy, whether inquiry-related, civil-law focused or reparation-based.**

96. **Clearly, the expectations of survivors must be approached with sensitivity and, although the Committee acknowledges that the NCF can match the requirements of some survivors, it also heard repeated calls for a broader approach that would meet the needs and aspirations of all.**

97. **The Committee considers that the Scottish Government's participation in the InterAction process, consultation on the time-bar on civil litigation, work that has been undertaken on restorative justice, and emphasis on the Survivor Strategy are all welcome developments. It is imperative, however, that this momentum is maintained and that all the policy strands be pulled together if the best interests of survivors are to be served.**

98. **As was highlighted by some witnesses, the links between the NCF and care providers is a matter that has not really been addressed. The Committee suggests this could merit further consideration by the Scottish Government. Evidently, such a connection will not always be helpful, welcome or appropriate - particularly in relation to individual survivors and their vulnerability - but the wider point, in the context of policy learning and prevention of the same mistakes being made in current care settings, could usefully be explored.**

### **Eligibility to participate**

#### *A balanced view of life in care*

99. The principal criterion to participate in the NCF is the experience of having been placed in institutional care as a child. This covers all forms of institutional care, including secure units and long-stay hospitals. The Bill provides that everyone placed in institutional care is eligible, whether they were placed in that care by the state or via a private arrangement.

100. The Policy Memorandum also states—

“The experiences which the NCF will hear will be all experiences of being in institutional care as a child, including abuse. The scope of the NCF is purposefully not restricted to hearing about experiences of abuse because this would not give a balanced view of life in care.”<sup>55</sup>

101. On the age criteria, it sets out—

“The Bill provides that the NCF will be open to any person over 18 years of age who has had an experience of being in institutional care as a child. There is no time restriction either in relation to the length of time spent in care or the start and end date of that period of time in care (with the exception that it is not current).”<sup>56</sup>

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<sup>55</sup> SP Bill 23 – PM.

<sup>56</sup> SP Bill 23 – PM.

102. The discussion of eligibility included age but also related to other types of care, including, most notably, foster care and kinship care.

*As a matter of principle*

103. Kathleen Marshall, TTBC Commissioner, addressed both the age and care aspects—

“There are specific issues for people under 18 because there should be other routes for them to use to address issues about when they were looked after... We recommended that the Forum should be widely available to people who were in institutional care, education institutions and foster care.”<sup>57</sup>

104. She added—

“Foster care is an area where we have the most to learn. In areas such as education and health institutions, abuse issues have not arisen to the degree that they have arisen in places such as children’s residential homes. As a matter of principle, I would want the Forum to be available as widely as possible.”<sup>58</sup>

105. Ms Marshall suggested that, even if the Bill proceeded without including foster care, it might subsequently be amended by order to add that category because people had “suffered just as much”<sup>59</sup> in that setting. She told the Committee—

“It is sometimes very difficult to tell the difference between a large foster home and a small children’s home because of the number of people there and the training and skill of the foster carers. That division therefore becomes artificial.”<sup>60</sup>

106. SHRC’s Duncan Wilson argued that any form of remedy should be as open and inclusive as possible and that any exclusion ought to be “carefully justified”<sup>61</sup>. He added—

“...the Commission has proposed that consideration be given to opening up the process to others who were indirectly affected – surviving relatives, for example...close relatives of people who are no longer alive – who might have taken their own lives”.<sup>62</sup>

*Different settings, shared experiences*

107. Moyra Hawthorn of CELCIS explained that, in comparison to other countries, more children experienced foster care in the post-war years, but being “boarded out” was not always a happy experience. CELCIS, she said, had received funding from the Scottish Government to undertake a scoping study on inclusion of those formerly in foster care.

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<sup>57</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013, Col 3591.*

<sup>58</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013, Col 3592.*

<sup>59</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013, Col 3592.*

<sup>60</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013, Col 3592.*

<sup>61</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013, Col 3592.*

<sup>62</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013, Cols 3592-93.*

108. She added—

“We know from some historical accounts in the media going back to the 1940s that children in foster care were abused as well...I would strongly recommend that those who were in foster care be included.”<sup>63</sup>

109. The Care Inspectorate’s Karen Anderson took a similar position—

“...we have noticed a rising trend regarding placements in foster care since 1987, with a decrease in placements in residential care. The important thing in all this is that, although the setting might be different, experiences may be shared. The Care Inspectorate welcomes the proposal to include foster care.”<sup>64</sup>

110. Another witness in favour of including foster care was Duncan Dunlop of Who Cares? Scotland—

“Young people will often have had more than one care placement and do not fit neatly into categories of residential care, foster care, kinship care or looked after at home – they cross the spectrum of those care placements in their care journey or care history, so it could be of use to consider the whole care spectrum.”<sup>65</sup>

111. Graham Bell of Kibble Education Care Centre (“Kibble”) suggested that in dealing with certain foster care issues, “we might well require a different approach from that taken in relation to residential institutions.”<sup>66</sup>

112. In a written submission, Aberlour Child Care Trust argued that the definition of “institutional care” should be expanded to include all forms of residential care experienced by children including secure care, respite care and hospital care. Aberlour believed that it was “essential that experiences of foster care be included in the remit of the Forum.”<sup>67</sup>

#### *A major flaw*

113. Zachari Duncalf gave the Care Leavers Association perspective on the exclusion of foster care from the Forum, describing it as “a major flaw that must be addressed.”<sup>68</sup> Asked about the case for extending coverage to kinship care, she said—

“Anybody, including adoptive parents, who has been formally assessed and has been recommended to be a carer for young people should be under scrutiny for that. People who have experienced abuse in those settings, where the individuals concerned had been assessed as being appropriate

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<sup>63</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 16 April 2013, Col 3593.

<sup>64</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3661.

<sup>65</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3662.

<sup>66</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3646.

<sup>67</sup> Aberlour Child Care Trust. Written submission to the Health and Sport Committee, V&W020.

<sup>68</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3660.

adults for their care, should be allowed to come forward and to use the National Confidential Forum.”<sup>69</sup>

114. Asked about kinship care, Duncan Wilson pointed to state failure to prevent abuse or protect children from risk, arguing that such failure was “clearly stronger where the state has taken responsibility for placing someone in care.”<sup>70</sup>

115. Tam Baillie, the Children’s Commissioner, echoed the point, arguing that it was important to include all placements that were “in some way engineered by or the responsibility of the state through either state provision or regulatory bodies.”

116. Kathleen Marshall expanded on this point—

“...in the Quarriers pilot the children had not all been placed in care by the state – some had been placed by the families – so sometimes that division can be artificial...There are also issues about private foster care, where children have been placed with people who are not related to them, and foster care where the state’s duty is more at a distance and supervisory in nature, rather than the state actually placing those children.”<sup>71</sup>

117. She again underlined the importance of the legislation being “flexible enough”<sup>72</sup> for other categories to be added.

118. Interestingly, in the realm of public information – by which of course the expectations of survivors may be informed – the Committee received copies of a SurvivorScotland leaflet that included foster care placements and kinship care in its definition of “in care”.<sup>73</sup>

*Children in the here and now*

119. On the age criterion, Mr Baillie suggested—

“Wherever the line is drawn, there are going to be difficulties. If, as I hope will happen, the average age of young people in care increases to beyond 18, the National Confidential Forum will have to take that into account. Children or young people in care should have access whether the line is drawn at 16 or 18.”<sup>74</sup>

120. He added—

“Saville has been mentioned, and that experience shows us that children do not have the confidence to raise issues and share information...One of the benefits of this discussion should be that we focus on children in the here

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<sup>69</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3661.

<sup>70</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3593.

<sup>71</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3594.

<sup>72</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3595.

<sup>73</sup> SurvivorScotland. *Childhood sexual abuse: Information for survivors, their families and friends.*

<sup>74</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3594.

and now. I do not suggest that we expand the Forum to cover all age groups, but the principles of it stand.”<sup>75</sup>

121. Karen Anderson referred to the Care Inspectorate’s written submission asking that the age range be examined. She told the Committee that if the eligibility threshold was to stay at 18, there was a need to “ensure that mechanisms are put in place for individuals between the ages of 16 and 18 so that they have the opportunity to seek support and raise issues about historical abuse.”<sup>76</sup>

122. Tam Baillie clarified that he was not suggesting that the National Confidential Forum should cover all ages. However, he argued that there was a need to look at the Forum’s principles and find ways of “creating confidential space for children who are currently in abusive or traumatising situations.”<sup>77</sup>

123. Duncan Dunlop suggested, on the basis of proposals on voting and other issues, that 16 was “a totally acceptable threshold”. He also put the likely demand from younger people to take part in the Forum into context—

“They seemed to feel fine talking about leaving care, but it was very difficult for them to address why they had gone into care. That relates to the question of re-traumatisation that was brought up; how to open up to young people the process of addressing the past. As an advocacy organisation, we do not expect many young people to take up that opportunity in the immediate aftermath of leaving the care system.”<sup>78</sup>

*Danger of saying we don’t want to hear your voice*

124. A broad view of participation was proffered by Victim Support Scotland. Alan McCloskey said allowing people to have their say was the most important thing—

“The commissioners should be given the openness to include people and to listen to what people have to say, regardless of whether they fit the criteria exactly. If we make the process too rigid, we are in danger of saying to somebody, “We don’t want to hear your voice.”<sup>79</sup>

125. Lorna Patterson of In Care Survivors Service Scotland (“ICSSS”) said—

“As the Bill stands, a person who is not 18 will not be able to participate in the Forum. However, if they require other support and the trigger for their coming forward was a wish to address other issues, I am sure that the Forum will signpost to an organisation such as the ICSSS.”<sup>80</sup>

126. The suggestion of flexibility was also one made by Jean Urquhart of the Scottish Catholic Safeguarding Service, who feared that young people “with a valuable story to tell” might be missed. She suggested that “it would be good to

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<sup>75</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 16 April 2013, Col 3594.

<sup>76</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3661.

<sup>77</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 16 April 2013, Col 3597.

<sup>78</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3662.

<sup>79</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 16 April 2013, Col 3619.

<sup>80</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 16 April 2013, Col 3624.

have a caveat in exceptional circumstances so that a younger person could be given the opportunity”.<sup>81</sup>

127. Barnardo’s declared the issue to be a complicated one, Richard Meade telling the Committee—

“...after all, these people might still be in care...and if the age limit were to be lowered we would need to be careful that adequate, appropriate and proper support and services were available to the children in question.”<sup>82</sup>

128. On the age question, the Minister for Public Health said—

“Part of our work involved looking at the experience in other jurisdictions. Ireland and Northern Ireland, which are ahead of us on this, set up an age limit of 18. In both cases, there was no request for anyone under the age of 18 to participate in any inquiry or commission.”<sup>83</sup>

129. He went on—

“The focus of the National Confidential Forum is on adult survivors, and 18 was seen as an appropriate limit. Other jurisdictions have gone for a specific period of time in which an individual had to be in care in order to give evidence to or participate in a forum. We have chosen not to do that.”<sup>84</sup>

The Minister told the Committee that there was a range of other mechanisms that could be utilised “to pursue issues relating to the management of care of those who are younger than 18.”<sup>85</sup> He added that if an individual approached the National Confidential Forum, which, whether or not they were under 18, was not the appropriate setting for their issues, he would “expect them to be guided to the most appropriate avenue of support.”<sup>86</sup>

130. Pressed on the matter, the Minister stated—

“It will be important to decide whether the Forum is the most appropriate setting for a 16-year old...I am prepared to consider the issue but we have to be careful about the evidence base and how the Forum would fit with other services.”<sup>87</sup>

131. Jean Maclellan of the Scottish Government told the Committee—

“...there are many opportunities within the existing system for care leavers at the 16 and 17-year old stage to have their voices heard. That is part of what

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<sup>81</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013, Col 3645.*

<sup>82</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013, Col 3645.*

<sup>83</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013, Col 3679.*

<sup>84</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013, Col 3679.*

<sup>85</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013, Col 3679.*

<sup>86</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013, Col 3679.*

<sup>87</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013, Cols 3681-82.*

our work on historical abuse aims to do: we aim to learn from the past to inform the present and the future.”<sup>88</sup>

132. Asked about the exclusion of foster and kinship care, the Minister told the Committee—

“If we further widened the approach to include foster care and kinship care, it would then be difficult to explain why we should not include other non-institutional care settings in which abuse may have taken place.”<sup>89</sup>

133. He added—

“...the acknowledgement forum should be very much focused on historical abuse that took place in institutional settings. To expand the definition could make it more difficult for the Forum to take forward that work. There is also the question whether the National Confidential Forum would be the most appropriate forum for such issues.”<sup>90</sup>

134. The Minister said that the Scottish Government had commissioned research to examine whether the NCF model would be suitable for those who had experienced abuse in foster care.<sup>91</sup> A pragmatic approach, he said, was expected—

“It is not the case that the Forum is banned from having anything to do with foster care as such...I expect the Forum to be pragmatic. If, in the course of giving evidence, someone who was in an institutional setting highlighted something that happened during a period of foster care, I would expect the Forum to deal with that.”<sup>92</sup>

**135. The Committee recognises that the focus of the NCF is on historic abuse and the right of adult survivors to be heard. It also appreciates the need for a cut-off to be applied at a specific age and that the Scottish Government gave consideration to ages 16, 18 and 21.**

**136. The Committee is pleased to hear from the Minister that under-18s approaching the NCF would be signposted to appropriate support services.**

**137. It is also welcome that the Scottish Government has commissioned CELCIS to carry out a piece of work on the suitability of an acknowledgment forum for people who might have experienced abuse in foster care. The Committee was pleased to hear the Minister’s expectation that a pragmatic approach would be taken by the NCF should foster care be broached by participants in the Forum.**

**138. The Committee understands that, in relation to kinship care, a cautious approach may be appropriate given the potential legal complexity, the**

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<sup>88</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3683.

<sup>89</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3690.

<sup>90</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3690.

<sup>91</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3691.

<sup>92</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3691.

departure from policy envisaged, and the shift that the inclusion of kinship care might bring about to the parameters of the NCF's work.

139. In regard to foster care, however, it was striking how many witnesses told the Committee that they considered this to be a serious omission. Among them was Kathleen Marshall – the TTBH report of which she was a co-author having recommended that foster care be covered. The former Children's Commissioner suggested that foster care was the setting from which we have "most to learn" and one in which children had "suffered just as much".

140. Being "boarded out" had not always been a happy experience, the Committee was told, and the Care Inspectorate had seen "a rising trend" with placements in foster care in recent decades, with a corresponding decline in residential placements. Children could be in different settings, it was said, and share the same experience.

141. The Committee notes the argument put by the current Children's Commissioner, that the Forum should encompass all settings into which children were placed by the state, whether directly or more circuitous means.

142. Given the evidence from a series of witnesses – among them a TTBH Commissioner, CELCIS, ICSSS, the Care Inspectorate, Who Cares? Scotland, Aberlour Child Care Trust, Barnardo's Scotland, and the Care Leavers Association – the Committee recommends that further consideration be given to including foster care in the eligibility criteria for participation in the NCF.

143. How participation works in practice, regarding demand to access the Forum from those individuals who do not meet the criteria and the supports to which they are then signposted, is something the Committee would expect the Scottish Government to monitor, particularly so in the early days of the NCF's operation.

## **Support**

### *To signpost services*

144. The Scottish Government's consultation 2012 had noted that the results of the pilot had suggested that participation in the Forum could contribute to participants' health and wellbeing particularly when the participants were "treated with great care and courtesy" and had the support they needed."<sup>93</sup>

145. In this regard, the Bill's Policy Memorandum sets out the functions of the NCF, including "...to signpost services to participants and their families which can offer support, advocacy, advice and information."<sup>94</sup>

146. The written submission from the SHRC set out several areas of support that were included in the SHRC Framework—

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<sup>94</sup> SP Bill 23 – PM.

- Access to relevant information (for example, files relating to the survivor's care);
- Psychological support or advocacy;
- State obligation to protect the physical and mental health of participants and NCF staff.<sup>95</sup>

147. Discussion of the support for participants covered many aspects including funding, longevity, capacity, accessibility, trust, and choice.

*Before, during and after*

148. David Whelan of FBGA said—

“...people need to have the proper support before, during and after the process. That support is crucial for any [confidential forum] model and will need to be in place.”<sup>96</sup>

149. Petitioner Chris Daly told the Committee—

“Survivors are suffering now. They have had issues accessing mental health services in Scotland and many survivors are unhelpfully diagnosed with personality disorder. That labelling cancels out the treatment of other conditions that have been diagnosed such as post-traumatic stress disorder, anxiety disorder or depression.”<sup>97</sup>

150. He spoke positively about the approach in the Republic of Ireland, where survivors of institutional abuse can access money from a body called Towards Healing (funded by the Irish Government, the Roman Catholic Church and other care institutions) with which they can make their choice of specialist trauma therapy—

“They have the choice of where they want to go and that is not time limited. If a person accessed a psychologist through the National Health Service in Scotland, the sessions would be limited to between eight and 12 sessions. In Ireland, the fund for survivors is not time limited”.<sup>98</sup>

151. Mr Daly highlighted the danger of survivors being re-traumatised if they went through the NCF process without the support they need—

“Survivors have been making this point for years to various committees, including the Public Petitions Committee, which Helen Holland and I were very involved with from 2002 to 2004, when the then First Minister, Jack McConnell, apologised for the abuse in institutions. We have been telling the

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<sup>95</sup> Scottish Human Rights Commission. Written submission to the Health and Sport Committee, V&W006.

<sup>96</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 26 March 2013, Col 3555.

<sup>97</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 26 March 2013, Col 3556.

<sup>98</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 26 March 2013, Col 3556.

Parliament and the Government that survivors need psychological help now.”<sup>99</sup>

*An element of euphoria*

152. Helen Holland said—

“When someone first speaks about abuse, there is initially an element of euphoria that they have managed to do so, and they feel better about the whole thing. However, as time goes on, the depression starts to come back, and they begin to question whether they did the right thing by speaking about it. A number of people go back to their doctor and say, “I’m not coping – I went along to the Forum and spoke about what had happened to me, and now I can’t sleep at night,” or they have issues with food or depression.”<sup>100</sup>

153. She was sceptical about the degree of support that could be offered by the NCF—

“If somebody comes forward to speak about what happened to them, they do it with the expectation that there will be something at the end of it...You may argue that it will be possible to direct that person to counselling services, for example. However, survivors have been going round revolving doors for years – probably since they came out of care.”<sup>101</sup>

*Not handed from professional to professional*

154. David Whelan was asked about support before participating in the Forum. He said—

“The question is how we empower and enable people to take up their rights in the context of the model that we are talking about. The ICSSS could be expanded – I understand that it provides advocacy...FBGA would like an independent, impartial group to provide advocacy as part of the process, so that anyone could go to it for advice, help and support, perhaps through a helpline.”<sup>102</sup>

155. Helen Holland recommended a gradual approach at the beginning—

“...so that a person is allowed to build up a relationship with the person who will be there to represent them...People cannot talk about issues of abuse with a complete stranger...A lot of people carry the shame of being in care.”<sup>103</sup>

156. Of the TTBH Pilot, Gerry Wells of Quarriers told the Committee that there were moving stories from people in their 80s who had talked, “almost for the first

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<sup>99</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013, Col 3556.*

<sup>100</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013, Col 3557.*

<sup>101</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013, Col 3558.*

<sup>102</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013, Col 3560.*

<sup>103</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013, Col 3561.*

time, about experiences that they had when they were 10, which they had carried with them for such a long time.”<sup>104</sup>

157. Zachari Duncalf told the Committee—

“...many older care leavers are isolated. They have not told partners, children or friends that they have ever been in care, let alone that they have experienced abuse. They might not have access to services, and some of those who have accessed services have found those experiences to be negative.”<sup>105</sup>

158. Helen Holland similarly pointed out that a lot of adult survivors had not told even their families about that aspect of their lives—

“They will need long-term support. It is not a case of someone saying, ‘I’ll come along on the day and hold your hand while you talk about what happened to you.’ There needs to be much more support than that.”<sup>106</sup>

159. Lorna Patterson of ICSSS talked about “that initial relationship” and offering counselling and a degree of advocacy “as a one-stop shop” so that one person could take the participant through the whole process. She noted that was “an option, as well as putting more emphasis on setting the expectations of what can happen before, during and after the process.”<sup>107</sup>

160. Continuity of support was also encouraged by Who Cares? Scotland’s Duncan Dunlop—

“...whether they are elderly or young they will need a continuous relationship and support before, during and after the process of giving evidence. Such people should not be handed from professional to professional.”<sup>108</sup>

161. David Whelan said that a number of the participants in TTBH lived outside of Scotland, in North America, Europe and Hong Kong, and that their ability to access services was also something that should be considered.<sup>109</sup>

*A matter of trust*

162. Trust was vitally important to survivors, as Alan McCloskey of Victim Support Scotland explained—

“When somebody experienced trauma in residential care, it was in a place that, as a child, they believed they could trust. We are asking people to go back into a Forum and saying, ‘Trust us.’”<sup>110</sup>

163. Joan Johnson of Health in Mind said—

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<sup>104</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3651.

<sup>105</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3665.

<sup>106</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3560.

<sup>107</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3614.

<sup>108</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3654.

<sup>109</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3560.

<sup>110</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3615.

“For people who were looked after and in care many decades ago, their coping mechanisms will potentially be dismantled by this process...the support that those people need, wherever it comes from, will need to last for a longer period in order to help them to rebuild the structures that enable them to rebuild their lives”.<sup>111</sup>

164. She also suggested that the option of peer support be explored, given levels of empathy and credibility that professionals would find difficult to offer.<sup>112</sup>

165. Lorna Patterson talked about counselling and advocacy running in parallel, as was the approach with the Irish organisation, Towards Healing. She also outlined how advocacy might cover things such as help with access to records and putting people in touch with other health professionals, organisations, housing advisers etc. She said that a lot had “resulted from those people finding a voice through the consultation process.”<sup>113</sup>

166. In terms of the duration of support, Helen Holland told the Committee—

“I think that support services will need to be in place for people for at least a year afterwards. That might sound totally way out there, but any trauma therapist will confirm that that is not an exaggeration.”<sup>114</sup>

167. Lorna Patterson reported that ICSSS was still working with people who had participated in the Time To Be Heard Pilot, took the view that in relation to long-term trauma, “two years is a more reasonable option.”<sup>115</sup>

*A spring in their step*

168. Also from the TTBH perspective, Kathleen Marshall echoed the importance of on-going support—

“Our experience was that people went out of the Forum with a spring in their step, which was amazing. I am sure that for most people, the beneficial effects of that would continue, but those who have been through the pilot will be a valuable source of information on the kind, extent and length of support that should continue to be provided.”<sup>116</sup>

169. She added that the survivor “should be able to choose” and that this was “an important aspect.”

170. Choice was also paramount for Helen Holland—

“They should not simply be told, “This is the support that is available to you and that is what you must use.” People need to be empowered to make the decision for themselves as to where they go for that support.”<sup>117</sup>

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<sup>111</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3615.

<sup>112</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3616.

<sup>113</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3617.

<sup>114</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3570.

<sup>115</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3614.

<sup>116</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3590.

<sup>117</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3571.

171. The needs of the participant were the most important thing, said Alan McCloskey—

“Whatever happens must be centred on the person...People will otherwise feel that they are being put through a process – that things will be taken from them....They have to feel that they are in control of the process.”<sup>118</sup>

172. Richard Crosse of CrossReach/Church of Scotland suggested seeking survivors’ views and tailoring services to meet their needs accordingly.<sup>119</sup>

173. Moyra Hawthorn of CELCIS also supported the person-centred approach, suggesting that there is a need for on-going support for survivors, but “it should be support of their choice, provided at the time of their choice.”<sup>120</sup>

*Clear briefing*

174. Moyra Hawthorn also suggested that participants should receive clear briefing about the nature of the NCF; two of the people she had interviewed having told her they had misunderstood the term “confidential” and assumed it meant they should keep their attendance at the Forum secret.<sup>121</sup>

175. Chris Daly told the Committee that poor literacy was a problem for a lot of survivors and that the language used in official papers could be complex and confusing. Advocacy support could help people understand the paperwork. TTBH had produced an easy-read leaflet and he suggested the NCF do the same.<sup>122</sup>

176. The Mental Welfare Commission’s Donald Lyons argued that speech and language assistance and therapy should be available to ensure maximum participation. Dr Lyons stated that his organisation was “very keen to give people with a learning disability enough support and information to allow them to participate.”<sup>123</sup>

177. Chris Daly was clear, from his and Helen Holland’s experience of 12 years, that promises of support must be delivered—

“...we have continually been promised that the support will be put in place, but we, who are so close to the issue, have not been given support throughout that time...The survivors might be left feeling just as raw – and possibly even more traumatised by the experience – if they do not get the emotional support that they need.”<sup>124</sup>

178. From SurvivorScotland, Linda Watters said, of the funding—

“...we have put in place finance for support to be available for survivors who come forward for the National Confidential Forum. A range of organisations already receive funding for different areas under the SurvivorScotland

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<sup>118</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013, Col 3617.*

<sup>119</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013, Col 3644.*

<sup>120</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013, Col 3591.*

<sup>121</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013, Col 3598.*

<sup>122</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013, Cols 3561-62.*

<sup>123</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013, Col 3598.*

<sup>124</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013, Col 3571.*

strategy, which is over and above the money that has been set aside for support as part of the National Confidential Forum.”<sup>125</sup>

*Authorised listeners*

179. The Roman Catholic Church and the Church of Scotland both outlined their independent safeguarding services, or, in the former case “authorised listeners”.<sup>126</sup>

180. Graham Bell of Kibble said—

“...different people wanted quite different things. Some quite understandably wanted nothing to do with their previous care provider, but there appear to be others, who feel a sense of affinity with the organisations in spite of what individual carers may have done.”<sup>127</sup>

181. On the subject of care providers and support, Richard Crosse told the Committee—

“I urge that there be guidance, for example, to help care providers to make the link between the National Confidential Forum and what they can provide in the context of their responsibilities.”<sup>128</sup>

*Training and expertise*

182. Zachari Duncalf was concerned about the training and expertise that would be needed to inform support for survivors—

“A few years ago the Care Leavers Association did a UK scoping exercise of mental health services, individual practitioners, councillors and therapists. We could not find a single person who had had any specific training on young people in care, older care leavers, access to records or historic abuse. That is a massive shortfall.”<sup>129</sup>

183. She explained the problems that adult survivors had encountered with mental health professionals who had not understood the importance of a record or what a children’s home was or other basics of understanding fundamental to working effectively with somebody who had been in care.<sup>130</sup>

184. NHS Education for Scotland stated, in a written submission, that it was “important to consider implications of the Bill for education and workforce development for health and social care staff.”<sup>131</sup>

*Needs of all survivors*

185. CELCIS, in its written submission to the Committee, highlighted those groups of survivors for whom specific consideration was likely to be required in respect of their support needs—

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<sup>125</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3613.

<sup>126</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Cols 3640-3641.

<sup>127</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3645.

<sup>128</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3651.

<sup>129</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3663.

<sup>130</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3663.

<sup>131</sup> NHS Education for Scotland. Written submission to the Health and Sport Committee, V&W011

- Disabled adults – disabled children having been particularly vulnerable to abuse;
- People with mental health issues;
- Those in prison, hospital, care homes, homeless people, the gypsy traveller community;
- Survivors living abroad;
- Older people – a significant number of the older 75s having experienced care as children;
- Young adults – they may have different support needs.<sup>132</sup>

The Care Inspectorate's Jacquie Pepper said that many survivors were already receiving support either through support and advocacy services or through friendships concluding that "those should also be supported through people's contact with the NCF."<sup>133</sup>

186. In regard to capacity, Ms Duncalf argued that "...we need to ask whether we have the capacity not only to support the Forum but to provide that support, advocacy and wide range of services that people need."<sup>134</sup> She added that it was "important that people who have experienced abuse but who do not necessarily want to give a testimony [to the NCF] should also have access to services."<sup>135</sup>

187. In its written submission, Children 1<sup>st</sup> said—

"...there is currently a great shortage of abuse recovery services for children and their families. Children 1<sup>st</sup> is clear that there are children and families in Scotland who have suffered sexual abuse, whose needs are not being met. Children and adults are often on waiting lists for months, if not years."<sup>136</sup>

188. Another written submission, by Harry Aitken, welcomed a "broader discussion" of the implications of the NCF for the availability of support and advocacy services in the country—

"Perhaps the NCF process has created an opportunity to standardise and integrate these services across Scotland so that the quality of service is assured, is cost effective and is flexible enough to meet the needs of all victims/survivors."<sup>137</sup>

189. On the experience from TTBH, the Minister for Public Health stated that the Scottish Government had "learned from the pilot that the wraparound support that was provided to participating individuals prior to, during and after proved to be

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<sup>132</sup> CELCIS. Written submission to the Health and Sport Committee, V&W017.

<sup>133</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3665.

<sup>134</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3665.

<sup>135</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3669.

<sup>136</sup> CHILDREN 1<sup>st</sup>. Written submission to the Health and Sport Committee, V&W026

<sup>137</sup> Harry Aitken. Written submission to the Health and Sport Committee.

effective for many.”<sup>138</sup> He added that bespoke services must be provided to reflect individuals’ needs, noting that the Scottish Government was “working with stakeholders to ensure we have that.”<sup>139</sup>

190. He reflected on the national nature of the NCF and the need to have support wherever survivors happened to be in Scotland—

“We are engaged with more than 80 organisations...in different parts of the country to ensure such arrangements are in place. It is extremely important that, if we are to get the health and wellbeing benefits that come from the acknowledgement of abuse, we ensure that we have the right supports for people.”<sup>140</sup>

191. Asked about likely demand to participate in the NCF and the capacity of support, the Minister said that about one per cent of those who had been in institutional care would reflect the experience of TTBH and also Ireland and Northern Ireland—

“We are working on the basis that the Forum might be subject to that level of demand...the challenge will be to ensure that the right type of care and support is provided before, during and after the process.”<sup>141</sup>

192. Jean Maclellan, Head of the Adult Care and Support Division of the Scottish Government, said—

“...we have changed our funding priorities in each of the funding years to accommodate need. We have therefore covered complex mental health, complex trauma, learning disability, minority ethnic services, physical health, remote and rural services, male survivors, survivors in prison and some prevention work.”<sup>142</sup>

193. The Minister highlighted funding of “more than £6 million” in recent years resourcing the SurvivorScotland strategy and supporting a range of organisations who worked with survivors and reassured the Committee that he intended to ensure that there was sufficient capacity, because “the benefits of the National Confidential Forum would be undermined if that capacity did not exist.”<sup>143</sup>

**194. The Committee welcomes the Minister’s comments regarding wrap-around support, bespoke services, the national picture, and funding priorities. It also welcomes the reassurance that there will be sufficient capacity to meet the needs of those survivors who choose to participate in the NCF.**

**195. As the Scottish Government recognises, access to counselling, therapeutic support, mental health services and advocacy will be essential if**

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<sup>138</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3680.

<sup>139</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3681.

<sup>140</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3681.

<sup>141</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3692.

<sup>142</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3694.

<sup>143</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3694.

survivors are to see the benefits in their health and wellbeing from participation in the Forum.

196. The Committee heard that the flip-side to the potential benefits to the health and emotional wellbeing is the risk of re-traumatisation. The resilience and coping mechanisms of participants will invariably be tested by the recounting of their experiences. It is clear then that the appropriate services must be available for all who take part – whether they are older people, young adults, disabled, living outside Scotland, with mental health issues, or whatever their life circumstances.

197. The extent of the knowledge and expertise required of mental health professionals to engage with survivors was a question that arose from some of the evidence. This has a degree of resonance with some recent work the Committee has undertaken on Post-traumatic Stress Disorder. It would be welcome, therefore, if the Scottish Government could elaborate on any plans to further develop or “up-skill” the people who will be working closely in support of survivors, whether those taking part in the NCF or otherwise.

198. The Committee acknowledges the frustrations of people who have heard promises of support in the past and not seen it delivered – survivors left raw from the lack of emotional support and feeling as if they have been passing through “revolving doors” since leaving care. The Committee was also told of the hope that the NCF process might lend itself to a re-examination of services nationally, contributing perhaps to the better integrated provision of quality, cost-effective and flexible services to support all adult survivors of childhood abuse.

199. The person-centred approach being crucial; the need for survivors to have a choice of supports; a one-stop approach to counselling and advocacy; the case for long-term support – up to two years in the reckoning of ICSSS; the merits of the Towards Healing model; the importance of a continuous relationship support-wise throughout the NCF process; exploration of the links between NCF and care providers, and a Church of Scotland call for guidance regarding the responsibilities of the latter – all were pertinent issues drawn from the evidence and pulled together here for the further consideration of the Scottish Government and other interested parties.

200. Given that support is so crucial for the health and wellbeing of those who suffered childhood abuse, the Committee seeks also an undertaking from the Scottish Government that it will ensure the availability of services for those who choose to participate in the Forum – so as to be supported before, during and after taking part – and more widely still to all adult survivors who may require psychological or counselling support.

## Confidentiality

### *To receive and listen in confidence*

201. The Policy Memorandum sets out the first of the NCF's functions as "...to receive and listen, in private and in confidence, to the experience of adults who were placed in institutional care as children".<sup>144</sup>

202. Other aspects of confidentiality cover—

- Provision to safeguard the confidentiality of information, including testimony, held by the NCF;
- A general prohibition on the disclosure of information provided to the Forum;
- Such information is exempt from Freedom of Information;
- Protection of participants, members and staff of the NCF from action for defamation, including absolute privilege for participants.<sup>145</sup>

203. The document says—

"The rights of both participants in the NCF and persons against whom allegations of abuse are made have been weighed to strike a fair and proportionate balance."<sup>146</sup>

204. Furthermore—

"The Bill makes provision for confidentiality to be breached in specific circumstances, including where a participant makes an allegation that a crime has been perpetrated or is likely to be perpetrated. Efforts will be made by the NCF to support participants to report such allegations directly to the police themselves."<sup>147</sup>

205. The Explanatory Notes elaborate on those circumstances—

"Information must be disclosed to the police where, in the opinion of the member acting in good faith, such disclosure is reasonably necessary to prevent the commission of an offence involving the abuse of a child."<sup>148</sup>

206. Also—

"Paragraph 13(5) enables a member of the Forum to disclose information to the police where an allegation is made by a person who has given testimony that an offence involving the abuse of a child has been committed. Disclosure

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<sup>144</sup> SP Bill 23 – PM.

<sup>145</sup> SP Bill 23 – PM.

<sup>146</sup> SP Bill 23 – PM.

<sup>147</sup> SP Bill 23 – PM.

<sup>148</sup> SP Bill 23 – EN.

is made to the police in these circumstances where it is, in the opinion of the member of the Forum acting in good faith, in the public interest to do so.”<sup>149</sup>

207. The preceding two paragraphs give the background to the “must” versus “may” discussion that featured in much of the Committee’s consideration of the theme of confidentiality in the Bill.

*Everyone has rights*

208. David Whelan of FBGA said—

“Participants will be protected...We have to recognise that everyone has rights, and that includes the accused, the organisations, the institutions, the entities, the church or whatever it might be.”<sup>150</sup>

209. Chris Daly, co-petitioner with Helen Holland, touched on the justice element—

“If the Commissioners who sit on the Forum hear evidence of crimes, they have an absolute responsibility to engage the police in the process as well. If someone comes along and it is clear that a crime was committed, and particularly if the Forum sees a pattern, with corroborating testimonies from survivors who were in the same institution at the same time, there will be a responsibility and a duty on the Forum to engage with the police on the matter.”<sup>151</sup>

*Criminal implications*

210. CELCIS encouraged careful scrutiny, Jennifer Davidson recommended that the Committee look closely at the powers that the National Confidential Forum will have “to ensure that they are sufficient to address issues that are raised that have criminal implications.”<sup>152</sup>

211. Duncan Wilson of the SHRC said—

“The NCF must also make very clear to people who are considering going to it what expectations they should have if, in the course of giving testimony, they make allegations against an institution or an individual. People should understand what might happen as a result of that. They need to understand that the information may be reported to the police.”<sup>153</sup>

212. The Bill, he suggested, left that “a bit too vague and ill-defined.”<sup>154</sup>

213. Referring back to the experience of the TTBH pilot, Kathleen Marshall said—

“...our concern was that, if someone’s experience was so far back that people were dead and the institution had disappeared, there was no real possibility of having an investigation. Is reporting that to the police a

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<sup>149</sup> SP Bill 23 – EN.

<sup>150</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Cols 3555-56.

<sup>151</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3566.

<sup>152</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3596.

<sup>153</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3605.

<sup>154</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3605.

disproportionate response if the survivor does not want it to happen? I will not go into that too much...but it is unresolved.”<sup>155</sup>

On the reporting of information to the criminal justice authorities, Donald Lyons of the Mental Welfare Commission stated that the Bill was clear that Forum members have the duty to make that decision. He observed that the Forum would “have to set some sort of threshold for what it reports and when.”<sup>156</sup>

214. Duncan Wilson told the Committee—

“...the responsibility to make the decision might be clear in the Bill, but the discretion to make it is unlimited. Whether in the Bill, in regulations or in the operating procedures, we would certainly look for something a bit clearer than that, which balances the public interest in having a Confidential Forum with the state obligation to ensure the investigation of crimes. Of course, it is in the public interest that there is criminal prosecution of serious child abuse. In the earliest iterations of the procedures around the Time To Be Heard Forum, that appeared to be limited to where there was known to be an on-going risk to others. However, there may be instances of corroborated testimony of serious abuse, which the public interest would demand – and the public would expect – to be investigated whether or not the named individual had continuing responsibility for the care of children.”<sup>157</sup>

215. The written submission from SHRC stated—

“The Commission notes that consideration of the same question in Northern Ireland was clarified as follows: “statutory framework requires that, where allegations of child abuse come to light, these must be reported immediately to PSNI [Police Service of Northern Ireland] and social services for investigation.””<sup>158</sup>

216. Richard Crosse of CrossReach/Church of Scotland addressed the issue of discretion with regard to historical abuse point, saying “that “may” should perhaps be a “must”.<sup>159</sup>

#### *Loss of control*

217. Mr Crosse suggested that survivors might sense the loss of control when a police referral was made—

“To the best of my understanding, the survivor does not have to co-operate if a referral is made to the police...They retain some control in that respect. That is a sensitive and difficult topic for survivors.”<sup>160</sup>

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<sup>155</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3608.

<sup>156</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3609.

<sup>157</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3609.

<sup>158</sup> SHRC. Written submission to the Health and Sport Committee, V&W006.

<sup>159</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3641.

<sup>160</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3642.

218. Jean Urquhart of the Scottish Catholic Safeguarding Service also suggested that it was important for survivors to know that they were not obliged to speak to the police.<sup>161</sup>

*A delicate balance*

219. The Care Inspectorate's Jacquie Pepper told the Committee—

“Provision could be made to allow people to give testimony in a confidential manner and to cover circumstances in which there are current concerns about an immediate risk to a child or a vulnerable adult. We need to balance that with the rights of an individual not to involve the police. It is a delicate balance but it is possible to make such provisions.”<sup>162</sup> ...“The preservation of confidentiality will be critical to the success of the Forum. It will be essential to put measures in place for that, to reassure people that the Forum will be confidential.”<sup>163</sup>

220. ICSSS in its written submission stated that the fact that many survivors of abuse “had issues with trust and the confidentiality aspect, including exclusions, should be made explicit”.<sup>164</sup>

In regard to the circumstances of information being passed to the police, Richard Meade of Barnardo's argued that adequate support was required before, during and after the survivor has given their account, to ensure that they are were “fully aware of what is happening and that they get any particular support that is needed.”<sup>165</sup>

*No surprises*

221. Richard Crosse concurred—

“At the outset, survivors who attend the National Confidential Forum should be made aware of the limits of confidentiality, and no surprises should be sprung on them. They should enter into the process knowing what the outcome might be if the information that they provide suggests that a crime has occurred and that others, or they themselves, might still be at risk.”<sup>166</sup>

222. David Whelan of FBGA expressed disquiet about his experience of submitting information to TTBH and it not appearing or being taken forward—

“There was some confusion about the security of people's testimony, because the pilot was not set up in legislation. My issue is that I gave Time To Be Heard official Quarriers documents that outlined abuse that my sister reported to the organisation, but nowhere in the Time To Be Heard report –

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<sup>161</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3644.

<sup>162</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3655.

<sup>163</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3669.

<sup>164</sup> Open Secret/ICSSS. Written submission to the Health and Sport Committee, V&W008.

<sup>165</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3642.

<sup>166</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Cols 3642-43.

even if it is anonymised – does it say that a participant in the pilot provided official documents about the organisation. That worries me.”<sup>167</sup>

223. Furthermore—

“I also provided a court document and there was no reference to that. There was also no reference to the conviction of the person involved. That was an official court document, which I gave in good faith.”<sup>168</sup>

224. In terms of written and electronic information to be held to the NCF, Dr Lyons was confident about its security—

“We [the Mental Welfare Commission] have so much very sensitive and confidential individual information, which we collect...I am confident that we could assist the Forum in setting up equally secure and confidential information handling. We have information technology security procedures and codes of conduct, and we would expect the Forum to follow those codes of conduct rather than devise one for itself.”<sup>169</sup>

225. Asked about confidentiality and referrals to the police, the Minister for Public Health said—

“It is fair to say that although the NCF will have discretion, it will not have unlimited discretion. It must report when it believes that evidence that has been presented to it could prevent a further crime from being committed. The discretion that the NCF will have is that when it receives evidence, it will have to consider whether it is in the public interest for that information to be passed on.”<sup>170</sup>

226. He told the Committee—

“It is about the nature of the acknowledgement forum itself and the participants in it understanding that the circumstances and the nature of the evidence they present will be considered by the Forum Commissioners, who will have scope to determine whether that information has to be passed on to the police.”<sup>171</sup>

227. The Minister pointed out that, unlike forums in other jurisdictions that had investigative elements, the NCF was to be “an acknowledgement forum in itself”—

“We believe that we have struck the right balance to assure participants that there will be a degree of consideration of the facts and information that they provide, and that the Forum Commissioners will come to a judgement as to whether it is in the public interest for that information to be reported.”<sup>172</sup>

228. He added—

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<sup>167</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3555.

<sup>168</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3555.

<sup>169</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3601.

<sup>170</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3685.

<sup>171</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3685.

<sup>172</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3686.

“It is about balancing the therapeutic value that can be gained from the Forum with the public interest and public safety. That is why we have not given the Forum unlimited discretion. If there is a risk that further harm could be done or a crime committed, the information must be reported.”<sup>173</sup>

He concluded that the confidentiality of the Forum was “crucial.”<sup>174</sup>

**229. The Committee recognises that, while confidentiality is the cornerstone of the NCF, a balance must be struck between the right of the individual to give testimony in confidence and the wider public interest.**

**230. It heard concerns from the SHRC about what was viewed as “unlimited” discretion, from other witnesses the case was made for making that “may” a “must”, and the outcome of similar deliberations in Northern Ireland was highlighted. It heard too, of the experience of TTBH and how one of the Commissioners of the Pilot considered the question “unresolved”. It also heard the Minister underline his view that the NCF had been conferred with discretion but that this was not unlimited.**

**231. On balance, the Committee considers the confidentiality aspects as set out in the Bill to be sensible, proportionate and intended to weigh the emotional and therapeutic benefits of participation with the public interest and safety, should information comes to light that indicates an immediate or current risk.**

**232. The Committee believes the parameters of confidentiality ought to be set out as clearly as possible. This will certainly be a sensitive subject for survivors but no-one should be expected to take part in the Forum without a proper understanding of the process, including its benefits, outcomes and consequences.**

## **Status**

### *Operational autonomy*

**233. The Policy Memorandum states that the Mental Welfare Commission shall host the NCF—**

“The MWC is a relevant and appropriate body to host the NCF as there are strategic links between the role and functions of the respective bodies in promoting the health and wellbeing of people. The MWC also has expertise and capacity to support the development of the NCF, while at the same time affording it operational autonomy.”<sup>175</sup>

**234. The Forum is to be a mandatory committee of the MWC, the members of that committee being responsible for the operational discharge of the NCF’s functions.**<sup>176</sup>

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<sup>173</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3686.

<sup>174</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3687.

<sup>175</sup> SP Bill 23 – PM.

<sup>176</sup> SP Bill 23 – PM.

*Issues of stigmatisation*

235. FBGA's David Whelan said his organisation did not have a problem with the Forum being placed with the MWC—

“We recognise that many survivors suffer from mental health issues. We also recognise that the commission has done good work. Our initial concern was that people would be stigmatised. I know that society is trying to address issues of stigmatisation in relation to HIV and mental health.”<sup>177</sup>

236. Helen Holland said—

“The arrangements could be seen as a stumbling block, because of the stigmatisation. We accept that a lot of survivors have issues with mental health, but many do not...the reason for the proposal needs to be made perfectly clear not just to survivors but to society as a whole.”<sup>178</sup>

*A good location*

237. On the subject of stigmatisation around mental health, Kathleen Marshall said—

“It is about whatever works. If the survivors can live with the arrangement, I think that the rest of us can. I certainly feel quite comfortable that the National Confidential Forum is in a good location.”<sup>179</sup>

238. According to Zachari Duncalf—

“...we also need to recognise that care leavers and survivors have had poor and negative experiences with mental health service providers. Some survivors are surviving and indeed striving, yet the issues of abuse are still prevalent in their lives. They might not want to be labelled as being in mental health services.”<sup>180</sup>

239. Although the Forum would be a sub-committee of the MWC, Mr Whelan suggested that it was important that survivors understood “that the NCF is independent.”<sup>181</sup>

240. Donald Lyons of the MWC took “a positive view” of hosting the Forum, citing shared strategic aims and “a definite synergy”—

“We have governance mechanisms, information systems, support systems and risk management systems that the Forum can use rather than having to develop all those things itself, and they will be appropriate to the work of the Forum, especially in relation to the security and confidentiality of the information that comes to it.”<sup>182</sup>

241. He added—

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<sup>177</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 26 March 2013, Col 3569.

<sup>178</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 26 March 2013, Col 3569.

<sup>179</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 16 April 2013, Cols 3600-01.

<sup>180</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3656.

<sup>181</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 26 March 2013, Col 3570.

<sup>182</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 16 April 2013, Col 3599.

“Broadly speaking, the way that it works out is that the Mental Welfare Commission will be responsible for ensuring that the Forum is properly governed and managed and that it delivers what it sets out to deliver under the legislation, but the evidence that the Forum collects and the way in which it reports on the evidence will be for the Forum to decide.”<sup>183</sup>

*Memorandum of understanding*

242. Dr Lyons explained that a memorandum of understanding was being worked on in conjunction with the Scottish Government.<sup>184</sup>

243. His colleague, Lucy Finn, said good progress was being made in that work—

“The NCF will be a completely independent organisation within the Commission. I feel confident from the work that we are doing with the SurvivorScotland team that that will be the case.”<sup>185</sup>

244. Dr Lyons said that information going out from the Forum would be “badged” as the Forum and not the MWC.<sup>186</sup>

245. The SHRC suggested what mattered was the “greatest possible functional independence”. Duncan Wilson told the Committee—

“The memorandum of understanding will therefore be key for ensuring, for example, the Forum’s autonomy to establish its own procedures and...to agree and publish its final report without any need for oversight or approval. Those are headline issues that go to the heart of functional independence.”<sup>187</sup>

246. Moyra Hawthorn of CELCIS emphasised the importance of complete independence from the Scottish Government—

“...we produced the document “Time for Justice”, which makes clear that some survivors want the Forum to have complete independence. Whether the Forum exists within another body or as completely standalone, they wanted there to be no Government representation on its committee and reference groups.”<sup>188</sup>

247. Barnardo’s Scotland’s Richard Meade said—

“As long as the NCF is operationally independent of the MWC and the Forum’s positioning, branding and presentation to those who will approach it are right, there will be less chance of it being stigmatised because of its association with the MWC.”<sup>189</sup>

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<sup>183</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Cols 3599-00.

<sup>184</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3600.

<sup>185</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3600.

<sup>186</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3600.

<sup>187</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3601.

<sup>188</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Cols 3601-02.

<sup>189</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3648.

248. The importance of both independence and impartiality was highlighted by Karen Anderson of the Care Inspectorate.<sup>190</sup>

249. The thinking behind the housing of the NCF was set out by the Minister for Public Health—

“I was conscious of the need to ensure that the body would not compromise the Forum’s role and that it would have, to some degree, a track record in pursuing issues relating to equality of care. In my view, the Mental Welfare Commission is the most natural public body to host the Forum.”<sup>191</sup>

250. On the question of independence, he said—

“Although the Mental Welfare Commission is the legal entity...the Forum will have its own persona; it will have a level of autonomy that will allow it to be identified as a body in its own right while receiving support and expertise from the Commission.”<sup>192</sup>

251. The Minister characterised the MWC’s role as one of support with such day-to-day functions as recording and reporting, record keeping and finance. He added—

“However, the Forum will have the autonomy to undertake its work in the way that is more appropriate, so that those who participate in it will see themselves as participating in the National Confidential Forum rather than in some sub-committee of the Mental Welfare Commission.”<sup>193</sup>

Creating a completely new body would, he said, have taken much longer, adding that the Forum would have its own identity, and that people would “be in no doubt that they are engaging with the National Confidential Forum.”<sup>194</sup>

252. The Minister stated that the memorandum of understanding would not be completed until the head of the NCF had been appointed but indicated that he was “happy to undertake to forward that information to the Committee as soon as the work has been completed”.<sup>195</sup>

253. He told the Committee—

“...I am grateful for the way in which the Mental Welfare Commission has gone about taking on its role. From my perspective, it has demonstrated a real willingness to take forward the National Confidential Forum in order to make it as effective as possible and to make it deliver what it is intended to deliver. Given the Commission’s track record, I have every confidence that it will help in that process.”<sup>196</sup>

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<sup>190</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Cols 3655-56.

<sup>191</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3688.

<sup>192</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3688.

<sup>193</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3688.

<sup>194</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3688.

<sup>195</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3689.

<sup>196</sup> Scottish Parliament Health and Sport Committee. *Official Report, 30 April 2013*, Col 3690.

254. The Committee recognises that the NCF must have operational autonomy if it is to perform its role effectively and with credibility, especially in the eyes of the survivor community.

255. It is reassured that most of the witnesses were comfortable with what is proposed or, in more positive terms, considered the MWC to be “a good location”. The potential for stigmatisation arising from the mental health tag and how that might put off would-be participants arose, but was generally not seen as problematic, provided its independence could be guaranteed and the NCF was badged in its own right.

256. The memorandum of understanding will be vital in ensuring the Forum can carry out its core work as it sees fit while benefitting from the infrastructure, governance and expertise of the MWC. The Committee welcomes the Minister’s undertaking to forward that information once the document has been finalised.

257. The Committee welcomes the assurance that those survivors who come forward to participate in the Forum can do so with the clear understanding that they are taking part in the NCF as opposed to a sub-committee hosted by the MWC.

## **Reports**

### *Setting out progress*

258. The Policy Memorandum states—

“The Bill makes provision for the production of an Annual Report by the NCF, setting out progress in discharging its function. The Bill will also empower the NCF to produce reports with general proposals based on the testimony it receives in hearings. All reports produced by the NCF will contain information from which it will not be possible to identify individuals or particular institutions.”<sup>197</sup>

259. According to the Scottish Government consultation document on the NCF, “lessons learnt from the past can help to prevent abuse in the future, inform improvements for the health and wellbeing of children in residential care today and protect their rights more effectively in the future.”<sup>198</sup>

### *Spell out what redaction means*

260. There was a good deal of discussion about confidentiality, anonymity, redaction, coding and other aspects of how testimony should be reflected in the NCF’s reports. Mr Whelan said—

“...any document that is produced for the National Confidential Forum should spell out what redaction means. People who come forward to tell their

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<sup>197</sup> SP Bill 23 – PM.

<sup>198</sup> Scottish Government. National Confidential Forum – A consultation on the creation of a Forum for Adult Survivors of Childhood Abuse in Residential Care.

experiences expect to pick up the report and say, “Oh – there is my experience.”<sup>199</sup>

261. Petitioner Chris Daly suggested—

“...in other places, a code is used and I asked the people who were working on the Bill to consider the possibility of giving survivors a specific code when they give evidence to the Forum, so that their testimony would be identifiable only to them.”<sup>200</sup>

262. David Whelan added—

“...where people have given similar testimony, their comments could be anonymised by using letters of the alphabet or numbers or some other code. If six survivors have given similar testimony that has been redacted into two paragraphs, perhaps there could be a reference to witnesses A, B, C and so on”.<sup>201</sup>

*Anonymity is not confidentiality*

263. The SHRC reflected on such comments and pointed out that anonymity was not the same as confidentiality. Duncan Wilson said—

“Although there may be benefits in having a confidential forum, that does not necessarily require anonymity in the testimony at the end of the process. It might be worth considering the approach of the Ryan report in Ireland for example which used coded references to survivors’ testimonies, so that individuals could identify where their experience was directly reflected in the final report.”<sup>202</sup>

264. Kathleen Marshall, TTBH Commissioner, was receptive to the idea of coding—

“Because of the way in which Time To Be Heard was set up...we were always concerned about confidentiality and piecing things together, but...in a Forum that is not a pilot and does not have an end, there will be an opportunity to have more negotiations with the survivors about how their experiences are reported and the extent to which they want them to be reported, and that should be quite simple to do.”<sup>203</sup>

265. The Scottish Catholic Safeguarding Service’s Jean Urquhart agreed—

“It must be very hard for someone who feels that they do not count to take the brave step to speak and then, after they speak, to be unable to find what they said in the report. They would still feel that they did not count. It is important

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<sup>199</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3562.

<sup>200</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3562.

<sup>201</sup> Scottish Parliament Health and Sport Committee. *Official Report, 26 March 2013*, Col 3564.

<sup>202</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Cols 3606-07.

<sup>203</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013*, Col 3608.

that...their words are recognised and noted and that they can find them for themselves.”<sup>204</sup>

*Shaping the future of the care system*

266. Jennifer Davidson of CELCIS widened the discussion—

“...generic reports will be far less powerful in respect of the evidence that is provided. The whole range of stakeholders – certainly survivors but also stakeholders who are interested in shaping the future of the care system – will have an interest in what comes out of the Forum for a number of different purposes.”<sup>205</sup> ...it is essential to archive and preserve what has been gathered. That includes survivors coming back later and reviewing the records that they have put to the Forum...Those data are very important. They do not just form a historical record; they are a personal record.”<sup>206</sup>

267. Kathleen Marshall also suggested that archiving and preserving could be a valuable element of the NCF’s work.<sup>207</sup>

*Learning opportunities*

268. In response to questions about the form of the annual report, the Committee received a variety of responses. Jean Urquhart envisaged an educational element saying, “...we would expect to see learning outcomes...to set out what has been learned, what trends have been identified and what the policy outcomes might be.”<sup>208</sup>

269. This was a theme taken up by Zachari Duncalf of the Care Leavers Association, who noted that the pilot forum had listened to adult or older care leavers across the generation repeatedly “saying the same thing and sometimes about the same organisation”. She concluded that the proposed National Confidential Forum had “to provide learning opportunities.”<sup>209</sup>

270. She told the Committee—

“The annual reporting process gives us the ability to see longer-term issues and outcomes around employability, accommodation and mental health, for example. We see those as young people’s issues, but actually they last a lifetime...Reporting on the statistics, the outcomes, the positive elements of care...can really benefit us in the wider scheme of things.”<sup>210</sup>

*Not cared for or loved*

271. Duncan Dunlop of Who Cares? Scotland wished to focus on today’s children in care—

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<sup>204</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013, Col 3648.*

<sup>205</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013, Col 3606.*

<sup>206</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013, Col 3606.*

<sup>207</sup> Scottish Parliament Health and Sport Committee. *Official Report, 16 April 2013, Col 3609.*

<sup>208</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013, Col 3649.*

<sup>209</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013, Col 3657.*

<sup>210</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013, Col 3657.*

“...what is still missing for a large number of young people, which is exactly where the reporting mechanism has potential, is that they are not cared for or loved within the system. They are not given access to what they believe are long-term, caring, loving, stable relationships, which are the fundamentals of most family situations.”<sup>211</sup>

272. He told the Committee that it would be “really valuable” to learn about that, because “we have seen that, across the generations, we have not managed to get that right.”<sup>212</sup>

273. Richard Crosse of CrossReach/Church of Scotland favoured outcomes, saying “it would be good if the annual report could say that x number of survivors had contact with their care providers and that the outcomes were, for example, access to records, a period of professional counselling, or just an acknowledgment by the care provider.”<sup>213</sup>

*A life in care is much bigger than that*

274. Zachari Duncalf said—

“What is lacking in current services and reporting structures is what happens beyond the statistics, outcomes and targeted measures. A life in care and beyond is much bigger than that...this debate brings in the emotional side – the love, care and support that are seriously lacking in our current care system”.<sup>214</sup>

275. She advised caution as regards people’s expectations—

“At the moment young people will speak out because they want to make changes to the care system so that other young people do not suffer in the way that they feel they suffered...We need to be clear that they do not have unrealistic expectations of what they will get out of it.”<sup>215</sup>

276. The Care Inspectorate’s Jacquie Pepper said the regulator was keen to learn from the NCF to inform its reform agenda and inspection methodology.<sup>216</sup>

277. Her colleague Karen Anderson stated that the inspectorate would “certainly take the intelligence about themes and trends and use it to inform the target and focus of our inspection and the way in which the inspection is undertaken.”<sup>217</sup>

278. ICSSS’s written submission suggested that survivor testimonies could be “very powerful” in informing practice and training, increasing public awareness, and breaking down stigma.<sup>218</sup>

279. NSPCC Scotland stated—

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<sup>211</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3658.

<sup>212</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3658.

<sup>213</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3649.

<sup>214</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3659.

<sup>215</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3663.

<sup>216</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3659.

<sup>217</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3666.

<sup>218</sup> Open Secret/ICSSS. Written submission to the Health and Sport Committee, V&W008.

“We believe that the learning from the Forum should be utilised by institutions, corporate parents and all other relevant stakeholders to ensure that a children’s rights approach is embedded in their cultures, behaviours and budgetary priorities”.<sup>219</sup>

280. CELCIS’s written submission was more circumspect—

“There is a clear gap in the function of the NCF “to make a contribution to the permanent record of life in care, enhancing public knowledge and understanding of an important part of Scotland’s history” and the absence of any detail of how this will be achieved.”<sup>220</sup>

281. It sought further clarification as to how the Forum would fulfil the aim of identifying patterns and trends of the care experience and making policy and practice recommendations.<sup>221</sup>

282. Former Chairman of INCAS, Harry Aitken, said, in a written submission, that it hoped that the NCF could contribute to wider learning for society as a whole whereby improving the outcomes of the next generation placed in care in Scotland.<sup>222</sup>

283. Aberlour Child Care Trust said of the patterns, trends and lessons that the NCF was expected to identify and report—

“We support this but would suggest that in order for this to have any meaning there must be a duty on Parliament, Scottish Ministers or the Care Inspectorate to consider and act on the recommendation of the Forum.”<sup>223</sup>

284. The Minister for Public Health told the Committee—

“...it is an operational matter for the head of the Confidential Forum to find a mechanism for recording information that protects people’s anonymity but which also allows them to identify how their evidence is detailed in the Forum’s report. In Ireland, a system was used whereby the evidence that was received was coded, which gave the individuals who gave evidence anonymity but allowed them to trace how their evidence influenced the report.”<sup>224</sup>

**285. People who were abused in care and have perhaps carried the feeling they did “not count” want their testimony to the Forum to matter; the Committee was told that survivors who come forward to participate expect to recognise their testimony in the reports of the NCF. It is acknowledged, as the Minister said, that this is likely an operational matter for the NCF, but the Committee suggests that the coding of testimony as practised in the Irish model (the Ryan report – highlighted by the SHRC) could be explored.**

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<sup>219</sup> NSPCC Scotland. Written submission to the Health and Sport Committee, V&W019.

<sup>220</sup> CELCIS. Written submission to the Health and Sport Committee, V&W017.

<sup>221</sup> CELCIS. Written submission to the Health and Sport Committee, V&W017.

<sup>222</sup> Harry Aitken. Written submission to the Health and Sport Committee.

<sup>223</sup> Aberlour Child Care Trust. Written submission to the Health and Sport Committee, V&W020.

<sup>224</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 23 April 2013, Col 3687.

286. The Committee heard that, in addition to the personal and, it is to be hoped, therapeutic value of taking part in the Forum, survivors were often motivated by a desire to contribute to the improvement of the care system for the next generation, in order that others would not have to endure what they did. The question, of course, is how that can be achieved.

287. Statistics, outcomes, targets – as the Care Leavers Association put it: “A life in care and beyond is much bigger than that”. The CLA, Who Cares? Scotland and other witnesses suggested the big question was how to shape a system that could properly fulfil the role of corporate parent and provide children in care with the love, nurture and support that was so often absent from their lives.

288. Expectations for the NCF and what it can achieve are high. It is the understanding of the Committee that the collecting of personal and historical data, the recording of testimony, and the identification of patterns and trends will be brought together by the Forum and used to inform (via the reporting mechanism) policy and practice, to build a permanent record of life in care, and to enhance public awareness.

289. The Committee welcomes what is envisaged but seeks further detail on how it will work, in particular the influencing of policy and practice (beyond an outline of the reporting process already provided in the Bill and accompanying documents).

## FINANCIAL IMPLICATIONS OF THE BILL

### Background

290. As required by Standing Orders Rule 9.3.2, the Bill was accompanied by a Financial Memorandum (“FM”).

291. Standing Orders also require the Committee to consider and report on the FM and, in doing so, to take into account any views submitted by the Finance Committee.

292. The Finance Committee issued a call for evidence on the Victims and Witnesses (Scotland) Bill’s FM with a deadline of 5 April 2013 for responses. Eight responses were received, the majority of which made no substantive comments on the FM, and these have been published online here: <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/62025.aspx>

293. The Finance Committee chose not to take any oral evidence in relation to the FM or these responses or to give any further scrutiny to this FM. It did not produce a report. The Convener of that Committee agreed that a copy of each response should be forwarded to the Health and Sport Committees for its own consideration.

294. The FM states—

“The analysis and estimates contained in this memorandum draw on a variety of sources including the Scottish Government consultation on the

NCF; the costs associated with the precursor to the NCF, the Time To Be Heard Pilot Forum, and the experience of other jurisdictions.”<sup>225</sup>

295. It also states that the specific financial impact of the Bill provisions relating to the NCF is “relatively narrow”. There are, however, “a range of costs associated with establishing and operating the NCF, including support for participants; staffing, and infrastructure costs.”<sup>226</sup>

296. In terms of demand, the estimate (based on a scoping project undertaken by CELCIS, the experience of Time To Be Heard, and demand for the Irish Commission) of people who may wish to participate in the Forum is given as 2,000. It is expected that the Forum would have 10 hearings a week. On that basis, the expenditure on the NCF is expected to run across several years and two spending review periods.<sup>227</sup>

297. On the subject of the number of hearings on an annual basis, Dr Lyons of the Mental Welfare Commission told the Committee—

“I would like to correct something that I said earlier – I got my maths wrong. If it is eight people a week for 50 weeks, between 400 and 500 people a year might have the opportunity to give evidence to the Forum. That shows why I was a complete failure on Countdown.”<sup>228</sup>

298. As regards the impact on the MWC, the FM notes that “...any additional costs falling to the MWC as a result of hosting the MWC will be funded by the Scottish Government.”<sup>229</sup>

299. Start-up costs are estimated at £260,000 in 2013-14. The annual recurring costs thereafter are put at £850,000.<sup>230</sup>

300. The FM states there to be no cost implications from the establishment and running of the Forum for other bodies, including local authorities, NHS Boards, the voluntary sector and individuals.<sup>231</sup>

301. Under the heading “other support for participants”, the FM sets out the costs associated with ICSSS, but points out that these costs do not arise directly from the Bill—

“In 2010, the Scottish Government provided funding for the creation of a new service, In Care Survivors Service Scotland (ICSSS), recognising the importance of a service specifically for adult survivors abused in care as children. This voluntary sector organisation provides dedicated services for adults...recognising their specific needs. The Scottish Government

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<sup>225</sup> SP Bill 23 – EN.

<sup>226</sup> SP Bill 23 – EN.

<sup>227</sup> SP Bill 23 – EN.

<sup>228</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 16 April 2013, Col 3610.

<sup>229</sup> SP Bill 23 – EN.

<sup>230</sup> SP Bill 23 – EN.

<sup>231</sup> SP Bill 23 – EN.

committed £750,000 of funding (until October 2011) and has recently committed a further £637,000 to ICSSS until 2015.”<sup>232</sup>

302. The Health and Sport Committee heard relatively little comment on the FM in the evidence it received.

303. Petitioner Helen Holland argued that “the economic climate cannot and should not every be used to deny victims justice.”<sup>233</sup> Open Secret/ICSSS commented, in a written submission, on the cost of psychological support, including that provided by its own service.<sup>234</sup>

**304. The Committee notes the contents of the Financial Memorandum and highlights that the costs associated with the NCF are said to be “relatively narrow” albeit covering the establishment and running of the Forum, its infrastructure and staffing etc.**

**305. The Committee notes the statement that there are no cost implications for other bodies, including local authorities, NHS Boards, and the voluntary sector.**

**306. It also notes that the Finance Committee described the written submissions it received as raising little in the way of substantive comment and chose neither to seek further evidence nor to produce a report.**

## SUBORDINATE LEGISLATION

### Background

#### *Subordinate Legislation Committee*

307. Under Rule 9.6.2 of Standing Orders, where a bill contains provisions conferring powers to make subordinate legislation, the Subordinate Legislation Committee (“SLC”) must consider and report to the lead committee on those provisions.

308. The SLC reported at some length on section 27(2) with regard to paragraph 7 of new Schedule 1A to the Mental Health (Care and Treatment) (Scotland) Act 2003. The full script can be read here: <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/61263.aspx>

309. The brief exchange between the SLC and the Scottish Government is detailed below.

### Section 27(2)

310. The Committee asked the Scottish Government—

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<sup>232</sup> SP Bill 23 – EN.

<sup>233</sup> Scottish Parliament Health and Sport Committee. *Official Report*, 26 March 2013, Col 3572.

<sup>234</sup> Open Secret/ICSSS. Written submission to the Health and Sport Committee, V&W008.

“In relation to the power contained in section 27(2) (inserting subparagraph (3) of paragraph (7) of schedule 1A to the 2003 Act) whether it is intended that the Scottish Ministers are under a duty to make an order under that subparagraph, or have a discretion to do so. Accordingly, the Scottish Government are asked to consider whether this should be made clearer?”<sup>235</sup>

311. To which the Scottish Government responded—

“It is confirmed that the intention is that the Scottish Ministers are under a duty to make the order. We consider that the Bill as drafted clearly provides for this as the order is required to give meaning to "institutional care".

“To be an "eligible person" under paragraph 7(2) of new schedule 1A, a person must have been in "institutional care". In paragraph 7(3) "institutional care" is a care or health service, which meets the conditions in paragraph 7(4) and conforms to what is in the order. If no order is made then there is no description or type of institutional care. The Bill provisions will, therefore, not have effect as there will be no eligible persons.

“Paragraph 7(4) provides that the order under 7(3) "must prescribe a description or type of care or health service which ". It then goes on to set out the parameters within which the order can prescribe a description or type of care or health service.

“It is clear that paragraph 7(4) cannot stand alone without the order to give meaning to "institutional care".<sup>236</sup>

#### *Conclusion*

**312. The Committee notes the views of the SLC and the response of the Scottish Government. The Committee comments on the eligibility to participate in the Forum in paragraphs 135-143.**

### EQUALITIES

313. The Scottish Government prepared an equality impact assessment (EQIA) for the Bill, which although described within the document itself as “relatively limited” was considered to be suitably detailed and clear.<sup>237</sup>

314. The document details the background to the Bill including the organisation and facilitation of the National Confidential Forum Reference Group, made up of contributors “from a range of perspectives and interests” and also the establishment of the Survivor Stakeholder Group, chaired independently and providing survivors with “a safe and supportive place” in which to discuss the NCF.<sup>238</sup>

315. The document addresses each of the protected characteristics in turn, some of the points including—

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<sup>235</sup> SP Paper 286.

<sup>236</sup> SP Paper 286.

<sup>237</sup> Scottish Government. Victims and Witnesses (Scotland) Bill EQIA – Results.

<sup>238</sup> Scottish Government. Victims and Witnesses (Scotland) Bill EQIA – Results.

- The NCF being grounded in a policy that appreciates the gender dimensions of being placed in care as a child – men and women offered an appropriate and sensitive context in which to recount their experiences;
- The consultation on the NCF highlighting the difficulty women might face in discussing sexual abuse with male members of the Forum and vice versa – gender-sensitive policies and practices will be followed;
- Evidence suggesting men are less likely to disclose abuse and to access support – a supportive and confidential environment will be offered;
- For many older people, this will be the first time they have had the chance to recount their experience – in a safe place with care and support;
- Younger people, feeling the stigma of being in care, offered the chance of acknowledgement of their experience – the more recent experiences of care being of importance to the Forum’s role to inform future law, policy and practice;
- Evidence suggesting that disabled children and young people are at greater risk of abuse – long-stay hospital explicitly included in the remit and people with disabilities will be able to benefit from acknowledgement;
- There being little past or current evidence, if any, of being in care and race – through the NCF people will be able to contribute to building a record of the experience of ethnic minority children in care in Scotland.<sup>239</sup>

316. The document states—

“...the general approach of the NCF will ensure that the needs of particular groups and individuals are fully understood and reflected in the policies and practices of the Forum, ensuring the full and equal participation in hearings of the Forum...and the fair and equal realisations by them of the outcome of improved health and wellbeing.”<sup>240</sup>

317. The Committee heard in its evidence a number of equality issues including—

- The discussion of the age criteria – the stipulation of being 18 or over to participate in the Forum;
- Support for survivors who may have literacy problems – easy read documentation, clear explanation of terminology and other types of support;

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<sup>239</sup> Scottish Government. Victims and Witnesses (Scotland) Bill EQIA – Results.

<sup>240</sup> Scottish Government. Victims and Witnesses (Scotland) Bill EQIA – Results.

- Making the process of participation as accessible as possible – covering among other factors people with physical disabilities and mental health issues.

318. **The Committee welcomes the EQIA and its focus on each of the protected categories. Certainly much of its own evidence chimes with the main points set out in the document.**

319. **The Committee further welcomes the statement that the Scottish Government will work alongside the NCF and MWF to ensure that the proposals to set up the Forum “are monitored and evaluated on an on-going basis, including the equality dimensions of those proposals.”<sup>241</sup>**

#### OVERALL CONCLUSION

320. **In arriving at its overall conclusion, the Committee draws on evidence given to it by survivors of childhood abuse, survivor representative groups, children’s organisations, survivor support bodies, academics, and care providers, as well as those providing a human rights and regulatory perspective.**

321. **The Committee is mindful of the words of the First Minister nine years ago when he stood up in the Chamber to offer an apology to those adults subjected to physical, sexual or emotional abuse while children in the care of the state: “...we in the Parliament, on behalf of the people of Scotland, recognise that they were wronged and that we will do more to support them in the future than we have ever done in the past.”**

322. **The expectations of survivors of childhood abuse must be approached with sensitivity and, while the NCF can meet the needs of some people, it is clear that a broader approach is required too. The Committee therefore welcomes the participation of the Scottish Government in the process of InterAction; the time-bar consultation; work undertaken on restorative justice, and the emphasis placed on the Survivor Strategy. That momentum must continue if the best interests of all survivors are to be served.**

323. **By way of its own contribution to that momentum, the Committee encourages that further consideration be given to matters such as: access to psychological, counselling and advocacy support; the links between the NCF and care providers; inclusion of foster care in the eligibility criteria; training and expertise of mental health professionals, and the role of the Forum in informing policy and practice.**

324. **Justice matters are outwith the Committee’s remit, but it did hear from witnesses that the lack of remedies, other than acknowledgement, can contribute negatively to people’s health and wellbeing. As one witness put it: “Survivors will judge the process, the Bill, the Act, and the National Confidential Forum on the personal outcomes for them. Just being heard and acknowledged might be exactly right for some, but others will have**

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<sup>241</sup> Scottish Government. Victims and Witnesses (Scotland) Bill EQIA – Results.

**needs that must be met, probably by care providers, support groups and others.**<sup>242</sup>

**325. The Committee draws the attention of the Justice Committee and the Parliament to the points above, but it recommends that the Bill (accepting that it has scrutinised only that part of the Bill pertaining to the provisions to establish the National Confidential Forum) proceeds to Stage 2.**

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<sup>242</sup> Scottish Parliament Health and Sport Committee. *Official Report, 23 April 2013*, Col 3640.

**ANNEXE A: EXTRACT FROM MINUTES OF THE HEALTH AND SPORT COMMITTEE**

**10th Meeting, 2013 (Session 4)**

**Tuesday 26 March 2013**

2. **Victims and Witnesses (Scotland) Bill - witness expenses:** The Committee agreed to delegate to the Convener responsibility for arranging for the SPCB to pay, under Rule 12.4.3, any expenses of witnesses in the Victims and Witnesses (Scotland) Bill evidence sessions.
3. **Victims and Witnesses (Scotland) Bill:** The Committee took evidence on the Bill at Stage 1 from—

David Whelan, Spokesperson, FBGA (Former Boys and Girls Abused in Quarriers Homes);

Jim Kane, Committee Member, In Care Abuse Survivors;

Helen Holland, PE1351 (Time for All to be Heard), and Chris Daly, PE1351 (Time for All to be Heard), Petitioner.

**11th Meeting, 2013 (Session 4)**

**Tuesday 16 April 2013**

3. **Victims and Witnesses (Scotland) Bill:** The Committee took evidence from—

Tam Baillie, Scotland's Commissioner for Children and Young People;

Professor Alan Miller, Chair, and Duncan Wilson, Head of Strategy and Legal, Scottish Human Rights Commission;

Kathleen Marshall, Former Commissioner on the Time To Be Heard Pilot, Time to be Heard;

Jennifer Davidson, Director, and Moyra Hawthorn, Research Lecturer, Centre for Excellence for Looked After Children in Scotland;

Donald Lyons, Chief Executive, and Lucy Finn, HR Manager (MWC Project Manager for NCF set-up), Mental Welfare Commission;

Lorna Patterson, Project Manager, In Care Survivors Service Scotland;

Joan Johnson, Head of Regulated Services, Health in Mind;

Alan McCloskey, Head of Victim and Witness Service, Victim Support Scotland;

Linda Watters, Team Leader, Survivor Scotland;

Louise Carlin, Bill Team Leader – Adult Care and Support (Survivor Scotland), Scottish Government.

**12th Meeting, 2013 (Session 4)**

**Tuesday 23 April 2013**

2. **Victims and Witnesses (Scotland) Bill:** The Committee took evidence from—

Gerry Wells, Head of Service, Quarriers;

Graham Bell, Chief Executive, Kibble Education and Care Centre;

Richard Crosse, Crossreach;

Jean Urquhart, Chair of Authorised Listeners Group, Scottish Catholic Safeguarding Service;

Richard Meade, Public Affairs Officer, Barnardo's Scotland;

Duncan Dunlop, Chief Executive, Who Cares? Scotland;

Zachari Duncalf, Ambassador, Care Leavers Association;

Jacquie Pepper, Senior Inspector, and Karen Anderson, Director of Strategic Development, Care Inspectorate.

**13th Meeting, 2013 (Session 4)**

**Tuesday 30 April 2013**

2. **Victims and Witnesses (Scotland) Bill:** The Committee took evidence on the Bill at Stage 1 from—

Michael Matheson, Minister for Public Health, Jean Maclellan, Head of Adult Care and Support Division, and Rosemary Lindsay, Principal Legal Officer, Food, Health and Community Care, Scottish Government.

**15th Meeting, 2013 (Session 4)**

**Tuesday 14 May 2013**

1. **Decision on taking business in private:** The Committee agreed to take its consideration of a draft report on the Victims and Witnesses (Scotland) Bill in

private. The Committee also agreed to take consideration of a draft report in private at future meetings.

3. **Victims and Witnesses (Scotland) Bill:** The Committee considered a draft report. Various changes were agreed to, and the Committee agreed to consider a revised draft, in private, at its next meeting.

**16th Meeting, 2013 (Session 4)**

**Tuesday 21 May 2013**

3. **Victims and Witnesses (Scotland) Bill (in private):** The Committee considered and agreed a draft report to the Justice Committee on the Victims and Witnesses (Scotland) Bill.

## **ANNEXE B: ORAL EVIDENCE AND ASSOCIATED WRITTEN EVIDENCE**

### **10th Meeting, 2013 (Session 4) Tuesday 26 March 2013**

#### Written Evidence

[FBGA \(Former Boys and Girls Abused in Quarriers Homes\) \(13 March 2013\)](#)

[FBGA \(Former Boys and Girls Abused in Quarriers Homes\) \(19 April 2013\)](#)

[FBGA \(Former Boys and Girls Abused in Quarriers Homes\) \(21 April 2013\)](#)

[FBGA \(Former Boys and Girls Abused in Quarriers Homes\) \(22 April 2013\)](#)

#### [Oral Evidence](#)

#### Supplementary Written Evidence

[FBGA \(Former Boys and Girls Abused in Quarriers Homes\) \(29 April 2013\)](#)

### **11th Meeting, 2013 (Session 4) Tuesday 16 April 2013**

#### Written Evidence

[Scottish Human Rights Commission](#)

[Centre for Excellence for Looked After Children in Scotland](#)

[In Care Survivors Service Scotland](#)

[Victim Support Scotland](#)

#### [Oral Evidence](#)

### **12th Meeting, 2013 (Session 4) Tuesday 23 April 2013**

#### Written Evidence

[Barnardo's Scotland](#)

[Who Cares? Scotland](#)

[Care Inspectorate](#)

#### [Oral Evidence](#)

#### Supplementary Written Evidence

[Care Leavers Association](#)

### **13th Meeting, 2013 (Session 4) Tuesday 30 April 2013**

#### Written Evidence

#### [Oral Evidence](#)

**ANNEXE C: LIST OF OTHER WRITTEN EVIDENCE**

[Care Inspectorate](#)  
[FBGA \(Former Boys and Girls Abused in Quarriers Homes\)](#)  
[VOX \(Voices of Experience\)](#)  
[Highland Violence Against Women Strategy Group](#)  
[West Lothian CHCP](#)  
[Scottish Human Rights Commission](#)  
[NHS Greater Glasgow and Clyde](#)  
[Open Secret](#)  
[Scottish Borders Council](#)  
[Glasgow City Council](#)  
[NHS Education for Scotland](#)  
[Sacro: Safeguarding Communities - Reducing Offending](#)  
[Law Society of Scotland](#)  
[Dumfries and Galloway Council](#)  
[Victim Support Scotland](#)  
[Barnardos Scotland](#)  
[CELCIS](#)  
[North Ayrshire Council](#)  
[NSPCC Scotland](#)  
[Aberlour Child Care Trust](#)  
[Angus Council](#)  
[UNISON Scotland](#)  
[South Lanarkshire Council](#)  
[RCPsych in Scotland](#)  
[Who Cares Scotland](#)  
[CHILDREN 1ST](#)  
[Information Commissioners Office](#)  
[Open Secret/ In Care Survivors Service Scotland](#)  
[Harry Aitken \(former Chair of In Care Abuse Survivors, Scotland\) \(7 April 2013\)](#)  
[Action for Children](#)  
[Harry Aitken \(former Chair of In Care Abuse Survivors, Scotland\) \(22 April 2013\)](#)  
[The Care Leavers Association](#)

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