

Quarriers

Caring and support for positive living

Scottish Law Commission

Discussion paper on Personal Injury Actions: Limitation and Prescribed Claims

Thank you for giving Quarriers the opportunity to respond to this consultation. Quarriers is a Scottish charity providing practical care and support for children and adults with a disability, children and families, homeless young people, people with epilepsy, and carers. Through more than 85 projects in over 100 different locations, we challenge poverty and inequality of opportunity and choice, to bring about positive change in people's lives.

Our interest in this particular issue relates to allegations of historic abuse, a number of which have resulted in criminal convictions against former employees of Quarriers. Our sympathies are with those whose lives have been blighted by the actions of those convicted individuals and the organisation sincerely regrets these events of the past.

However, our experience of preparing to give evidence and giving evidence in court would indicate that there are very real difficulties in determining the truth about events which happened even 20 years ago, let alone more than 41 years. Some of the main difficulties arise from the fact that, like many other organisations, there are now no employees in the organisation who would have been working at the time of the alleged events, who would have accurate knowledge of what the culture and ethos of the organisation was like. There is no one currently working in the organisation with accurate knowledge of the defendant or the pursuer, and their conduct or behaviour at the time of the alleged event. There is no detailed information on how day-to-day issues were dealt with, as no written records exist of policies and procedures at that time.

We have consistently found that the children's records that do survive fail to mention any of the incidents which have been alleged, which may not necessarily mean that they did not happen, but merely that they were not recorded.

Given our experience of these problems and the resulting difficulties in establishing the truth, we would agree with the proposal to retain the existing limitation and prescription provisions and would argue that more rigid application should be adopted. The prescribed period was set up to ensure fairness for the accused, in recognition that time puts an unfair burden on the defender of an action. This legal recognition is sometimes waived due, in some cases, to expediency and a need to be seen to recognise a possible wrong. The law is not definitive on this and relies on the judge making an assessment which appears to be very subjective.

However, in no way does Quarriers seek to cover up or evade the consequences of these events, and we have been more than willing to hear from survivors of child sexual abuse and organisations representing them, to understand from their experience what more they think can be done for survivors today, in the provision of support that would enable them to achieve closure and move forward.

It is our contention that an inquiry, similar to that being conducted in Ireland by the Commission to Inquire into Child Abuse, would offer the opportunity for survivors to tell their story, in confidence if that is what they wish, in a sympathetic and

supportive forum, and for that story to be believed. For many people, that in itself would afford a measure of comfort, and would provide an opportunity for "closure". In the UK, the only recourse is to use the formal court system, an adversarial approach which, for many, can become as traumatic as the abuse, and which, in any case, many people are time-barred from utilising.

In addition, we believe that one of the most positive measures in Ireland has been the establishment of a dedicated service to provide counselling to the survivors of institutional child abuse. Survivors struggle with complex and multiple difficulties well into their adult lives, and some are so badly damaged by their childhood experience that they find it impossible to cope.

The provision of a range of support mechanisms, including the opportunity of a sympathetic hearing for survivors' experiences and access to specialist counselling, might go at least some way to alleviating the trauma suffered, and to helping survivors achieve a sense of closure which would allow them to move on with their lives.

I hope that this is useful, and we would be happy to discuss further the work of Quarriers and the people we support, if that were helpful.

KATE SANFORD

Policy Officer

Email: kate.sanford@quarriers.org.uk

31 May 2006