

Mrs Susan Sutherland
Scottish Law Commission
140 Causewayside
Edinburgh EH9 1PR

David Whelan

2nd March 2007

Ref: Discussion paper on Personal Injuries Actions: Limitation and Prescribed Claims.

**Scottish Law Commission & Quarriers submission by Ms Kate Stanford, Policy Officer
31st May 2006.**

Dear Sirs/Madam

I wish to submit a response in relation to the above.

This is on behalf of the FBGA group (Former Boys and Girls Abused in Quarriers) which I currently chair.

The opening statement by Quarriers Charity in relation to the good works that Quarriers Charity carries out today. This is a very similar to past PR statements conveyed in the past by the past senior management of Quarriers Homes and the organisations committees which was representative of a cross section of the Scottish Establishment in its day including the Scottish Judiciary.

All the while the sexual and physical abuse of children placed in care in Quarriers was taking place. This abuse was carried out by employees at the time while the past organisation was claiming that it carryout good works in the name of the Lord.

There are no doubts that Quarriers and other Charities carryout good work today that is what there remit is and function is supposed to be. Lord Drummond Young is on record stating that the charities carryout good work we do not dispute that.

This should not detract from the fact that many children were abused down the generations while under the care of the past Quarriers organisation. The Court convictions of so many ex-employees of Quarriers are clear testimony to that fact.

Many other children (now adults) are being Time barred from seeking redress in the courts and the Police and Procurator Fiscal are not now investigating all alleged crimes reported by these former children.

The fact of the matter is that for many children in-care in Quarriers their experience was one of sexual and physical abuse. To-date there have been 8 convictions of Quarriers ex-employees in the Scottish Courts all based on fact and evidence presented in Court.

The Court arena and the Jury system of justice was able to determine fully the truthfulness of those who were alleging they were abused by those accused and subsequently convicted.

Quarriers Charity have called into question in there submission to the Scottish Law Commission, the very function and ability of the Police, Judiciary and the Courts to determine in all areas of law including convictions upheld by the Scottish Appeals Court by continuing to question these convictions truthfulness.

Quarriers sympathies have in fact on balance clearly been with their ex-employees convicted. They have permitted families and supporters of those convicted to mount a vicious campaign against the victims from a number of Quarriers properties in 2003 whereby claiming that there had been a mis-carriage of justice and that victims had LIED!

This campaign was also conducted in the media from these Quarriers properties in a programme on BBC Scotland Frontline "Secrets or Lies" 1st April 2003. This according to the BBC Frontline in documents in our possession included professionals connected to the Quarriers organisation today and past Directors. We are aware that Mr Joe Mortimer a former Director of Quarriers spoke at length with BBC Frontline with regards confidential children's file.

This programme and its background has been the subject of a BBC GPCC committee editorial independent investigation which has recently found serious failures in the research and broadcasting process and raised serious concerns with regards BBC Frontline Scotland's employees conduct.

The past and present Quarriers organisation's employees are inextricably linked including its senior management Mr Joe Mortimer and Mr Bill Dunbar (Ms Pam Barr's, letter ref: PB 347, dated 05/07/2004). Ms Barr clearly states in this letter and I quote: "He does (Mr Dunbar) hold an enormous amount of information about the history of the Village and therefore, even though he is retired, people call upon his memory on many occasion"

Mr William Dunbar an ex-senior Director of the organisation was the organisations archivist up-to 2001 responsible for the "Children's Confidential Files) which are protected in Law. This included him being responsible for these files while there were ongoing Police investigations.

It raises the question why these files are not a true and accurate record of children's time in the care of the organisation.

Former ex-employees continued to work for the organisation while under investigation. In fact we raised this very issue in the Scottish Parliament in 2004 and furnished documents to Ms Sandra White MSP who was a member of the Scottish Petitions Committee at the time.

Its disingenuous and untruthful for Quarriers Charity today to state in its submission to the Scottish Law Commission that there are no connections with its past ex-employees and the past organisation when there is clear fact and evidence and documentation to the contrary.

The care system in Scotland has been corrupted by the past nepotism of the past senior management of Quarriers Homes.

The Quarriers organisation senior management past and present continue to be in denial of the said crimes committed as do the perpetrators. The sole purpose of this stance is to undermine the legal process and the rule of law and the victims.

In this process of attempting to undermine the Quarrier victims who's cases have been determined in the Scottish Courts, Quarriers and their agents have employed the services of so called "Experts" Mr Ray Wyre and Dr Janet Boakes and requested that victims attend meetings with Dr Janet Boakes" False Memory Expert". This has included myself yet they deny me access to the medical report as the data subject.

This further damages victims whose cases have already been determined in the Scottish Courts and in some cases upheld in the Scottish Appeal Courts.

Polices and procedures of the past Quarriers organisation were determined at the time and laid down on the basis of legislation such as the 1948 Children's Act enacted by Parliament and other such legislation in force down the generations as laid down in law to protect children in-care.

There are in fact reports of serious abuse reported at the time in some of the Confidential Children's Files including that of my sister Irene Whelan.

These reports were written by the employees at the time. It was at the sole discretion of the ex-employees and the senior past management what was actually written as they had full control of these Children's Confidential Files.

As the past organisation employees and senior management were fully responsible for compiling and retention of all of these Children's reports it is of little comfort that the sexual, physical and mistreatment of children in its care is not thoroughly documented.

The Statute of Limitations (Timebar) prevents the complete uncovering of this abuse and the depth of it and condones crimes perpetrated. In many instances former children are claiming they were abused in the past organisation and have had no recourse in law to-date.

The fact of the matter the current legal limitation favours overwhelmingly Quarriers Charity agents (the insurance company Norwich Union and the Quarriers organisation in this instance as it does in similar cases. There should be no Statute of Limitation in cases such as this.

The past agents, regulators and the past organisation clearly failed in their collective duty to protect many children placed in care in some cases placed by the State for their own protection only for them to be abused in care.

These claims should not be viewed as stale claims. In fact Quarriers agents Norwich Union in a submission to a UK, Parliament Home Affairs Select committee in 2002, memorandum 45 (CA166) recognised the damage and destruction this type of abuse inflicts on the victims and submitted that "Where an abuser has been convicted by the criminal courts beyond reasonable doubt, it is almost impossible for Insurers handling any subsequent claim for compensation in a Civil Court to defend liability as this pleaded conviction reverses the burden of proof.

The also submitted additional submissions to this Select Committee in 2002 in matters relating to "Historical abuse issues"

In fact Norwich Union who are Quarriers agents are in fact doing the opposite and continue to challenge these convictions at every turn including using the current Timebar law as a barrier to a just resolution.

Quarriers and their agents also use their position and power to employ so called false memory "Experts" such as Dr Janet Boakes to undermine victims even after convictions are upheld in the Scottish Appeal Courts.

There is no unfair burden on the defender of an action. The unfairness comes from the fact that the defenders continue to deny abuse occurred in the first place and continue to challenge the convictions in these cases including some which have been upheld in the Scottish appeal Courts.

To our knowledge at no time has the Statute of Limitations been waived as claimed by Quarriers and their agents in any case before the Scottish Judiciary. All legal cases are determined by the Judiciary on their individual merits.

In this submission Quarriers and their agents are even proposing that any leeway the Judiciary have to use their discretion should be further tighten and closed. Clearly in the defenders interests and not equilibrium. In fairness of Justice to all and against the victims human rights as enshrined in the European Human rights convention.

Quarriers contention that they are willing to hear from victims of abuse one only has to ask its own victims and you will hear a resounding no and action to the contrary by the Quarriers organisation and its agents.

There has been no attempt whatsoever on the part of Quarriers or its agents to resolve these cases amicably and to the benefit of the welfare of the victims.

They attempt and claim to deal with others at the expense of their own victims who they exclude from their past feeble and corrupt attempts at so called willing to hear from the victims. They give public assurances to the Victims at a “Children’s vs Media” conference in Bath, November 2004 yet fail to deliver on any commitment publicly given. All the while undermining their own victims including me. This is how charitable they are.

Closure for the victims comes in many shapes and forms but does not include Quarriers and their agent continuing to be in denial of the said crimes committed and doing all in its power to block reconciliation and resolution to these abuse issues for its own victims.

The Irish Government took decisive action to deal with all Historical Abuse issues in Ireland including setting up a redress board and initiating Judicial Inquiries with full judicial powers into past organisations such as the Catholic Church.

Which resulted in Inquiries such as the (Ferns report) and the Dublin diocese Inquiry.

We would welcome a Full Judicial Inquiry into Quarriers the Charity past and present which would fully determine the past and ensure the current organisation was fit for purpose going forward.

The Scottish Executive should take similar decisive action including the Scottish Law Commission producing a solution and formula which breaks the deadlock in the Scottish Courts (600 cases currently) and removes Timebar which is an inequitable law in relation to victims of crime and in particular “Historical Abuse in-care cases”

We continue to have discussion with officials at the Scottish Executive and support there on going strategy in providing assistance, support and help to all childhood survivors of sexual abuse. We are committed to assisting the process of providing dedicated services to all those abused in-care.

There are many reasons why survivors have trauma and a variety of complex needs. But primary it is due to the fact that they were abused in-care by those supposedly caring for them. This damage is especially acute and destructive due to the nature of the abuse and the fact it is perpetrated by those purporting to be doing the good work of the Lord.

I would kindly ask that this submission on behalf of FBGA and myself be attached to the Quarriers Charity submission in response to their document submitted.

Yours Sincerely



David Whelan
FBGA (Former Boys and Girls Abused in Quarriers)

www.fbga.co.uk