

Abuse survivors' rights could be undermined by compensation process, MSPs told



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The scheme could offer payments of between £10,000 and £80,000 for survivors (Dominic Lipinski/PA)

Making abuse survivors sign a waiver to receive financial compensation undermines their rights, campaigners have said.

Under the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill, survivors of childhood abuse in care will need to sign a document stating they will not seek civil action against providers.

The Scottish Government has said this is to ensure care providers will contribute to funding the scheme.

This week's meeting will continue our scrutiny of the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill. The papers, including the submissions to the Committee, can be read here: <https://t.co/i0qydsvOtf>

— Education and Skills Committee (@SP_EduSkills) October 26, 2020

Survivors groups railed against the policy at an evidence session held by the Education and Skills Committee on Wednesday, saying it erodes the rights of those who suffered abuse.

Harry Aitken, of the Former Boys and Girls Abused in Quarriers Homes group, said: “It’s not acceptable that any government should demand that a survivor or a citizen should sign away their rights.

“In fact, it should be the duty, the obligation of a government that they protect citizens’ rights.”

David Whelan, who also represents those abused at Quarriers, said: “I think you’re taking away choice. I think you’re taking away a right and that right is choice.

“It shouldn’t be one or the other.”

Mr Whelan advocated an “offsetting” system, in which any settlement given through Redress Scotland – the body which the Bill would create to deal with claims – would be deducted from a subsequent civil action.

Helen Holland, from In Care Abuse Survivors Scotland (INCAS), said the waiver seems to “protect the abusers more than it does the survivors”, adding that if a waiver has to be

in the legislation then it should only be signed when survivors are absolutely happy with the settlement they are receiving.

But she argued rights are not being denied to survivors, saying they have a choice of taking civil action or receiving a redress scheme but not receiving both.

In 2017, the Scottish Government lifted the “time bar” on childhood abuse claims – which previously meant civil action had to be taken within three years of a survivor turning 16.

Ms Holland said most civil actions that can be taken will already have started in the past three years.

Simon Collins, a legal representative for INCAS, told the committee that signing the waiver would mean someone without enough evidence to launch a civil claim would be barred from doing so in the future if further information became available.

The panel also spoke out against the amounts being made available to survivors, with Ms Holland branding the maximum amount of £80,000 “an insult”.

She said: “I don’t think it’ll come as any surprise to say that we don’t agree with the levels at all, in any shape, form or manner.”

Ms Holland compared the scheme with a similar one in Ireland, where payments can go up to 300,000 euros (£269,199) compared to the proposed Scottish payments of between £10,000 and £80,000.

She added: “We’re talking about people who were put into care as babies, infants, pre-school, right up to the age of 15 or 16 – their whole childhoods being denied.

“How can £80,000 equate to that? I know it’s horrible to put a financial sum against abuse but it needs to be a financial sum that seems justified.”