

## **Victims and Witnesses (Scotland) Bill**

Former Boys and Girls Abused in Quarriers Homes

FBGA

With regards to any proposed pre - entry, initial briefing sessions for participants. For those participants contacting NCF, we believe this may have to involve some form of a sensitive and un-intrusive risk assessment-assessing any health or other issues that a participant may have prior to actually participating in the National Confidential Forum (NCF).

Duty to report credible criminal allegations of child abuse by NCF Commissioners and others.

We are concerned by comments made by the former TTBH commissioner regarding the discretion and threshold to report credible criminal child abuse allegations made by participants to TTBH and the example they gave regarding deceased individuals and organisations no longer operating.

No matter the age or grouping whether it be young people or former residents/victims-survivors regardless there is a moral and legal imperative to report any credible criminal allegations of child abuse to the Police.

Even if individuals are deceased we believe that all credible criminal allegations should be reported. It is for the police to determine any course of action or otherwise. We also understand today more how such abusers operate and in some cases have networks that involve others.

Some abusers were connected in a voluntary capacity with their former employers,-organisations after their employment had ended.

Allegations taken forward by the police we would expect the victims to be fully supported explained and informed of what it entails, kept fully updated and informed as to progress or otherwise in all individual cases.

There is a discretion in the Bill for NCF Commissioners to report allegations of child abuse—we would want this to be a statutory right as it is currently is for any public body.

This is ill defined as it currently stands in the Bill. This matter has to weigh up and balance the public interest and the state obligation to investigate which clearly it is, in relation to credible child abuse allegations.

The duty to report credible criminal allegations of child abuse to the authorities, reported to the NCF Commissioners by participants or anyone associated with the operational and governance of the NCF, as currently defined in the Victims and Witness Scotland Bill is too vague.

We welcome and support the Scottish Human Rights Commission's comments regarding this important matter.

We would recommend that there is a Statutory duty placed on the NCF and those who will operate the NCF including NCF Commissioners and NCF employees to report ALL credible criminal child abuse allegations reported by participants to the police.

This statutory duty should extend also to the Mental Welfare Commission who will have ultimate responsibility for the National Confidential Forum.

#### Eligibility to participate in NCF

We welcome comments made by the former TTBH Commissioner and in particular the SHRC (Duncan Wilson,s comments) " in principle a process like this should be open indeed adapted to include everyone" and any departure from that should be carefully justified.

As FBGA stated in our written submission we would expect due consideration to be given to All who wish to submit a testimony to the NCF. We welcome the additional scoping work announced by the Survivor Scotland regarding foster care.

It must also be appreciated and considered by NCF and the Commissioners, that some close relatives including siblings placed in care together, some may be deceased yet others siblings or relatives are still alive who were direct or indirect witnesses to abuse perpetrated on those deceased. It is vital that the NCF hears testimonies from others including family members directly affected by these issues.

It is important that those with learning difficulties, in-firmed or elderly and are eligible are prioritised in any NCF process while avoiding any discrimination, equitable polices should be implemented and in place.

#### Counselling and Advocacy

We welcome comments made by the Survivor Scotland team representative, Linda Watters regarding choice of services for victims-survivors in the forthcoming NCF processes.

We appreciate and recognise as the In Care Survivor Scotland Service, Lorna Patterson said in evidence, that for some survivors they may wish a one stop service which includes counselling and some form of advocacy. We would wish this to continue and be enhanced.

Other victims-survivors have also expressed to FBGA and others that they will wish to seek their own independent and impartial counselling support and advice-advocacy service.

Counselling and Advocacy as the committee will appreciate are two very different specialities governed by their appropriate bodies. With different skills, qualifications and separate training required for both specialities for those who engage in such areas of work.

Advocacy as defined by the Scottish Independent Advocacy Alliance.  
<http://www.siaa.org.uk/>

The Scottish Independent Advocacy Alliance receives funding from the Scottish Government.

With its own set of principles and standards for undertaking Independent Advocacy, see link

<http://www.siaa.org.uk/images/stories/siaaprinciples%26standardsforweb.pdf>

Principle 3:

“Independent advocacy is as free as it can be from conflicts of interest” and the associated standards:

- 3.1: “Independent advocacy cannot be controlled by a service provider”;
- 3.2: “Independent advocacy and promoting independent advocacy are the only things that independent advocacy organisations do”;
- 3.3: “Independent advocacy looks out for and minimises conflicts of interest”.

We would wish to ensure that those participants who wish to engage with the NCF are offered choice of services, whereby they can make fully informed decisions and we welcome comments made by Louise Carling, bill team leader and Linda Watters of Survivor Scotland regarding this matter.

Advocacy should be independent and impartial avoiding conflicts of interests and not provided by service providers as recommended by the Scottish Independent Advocacy Alliance.

Also some participants to the NCF may have a statutory right to Advocacy such as those with mental health and learning difficulties, this was just one of the reasons why we addressed independent and impartial advocacy in our evidence session.

Archiving of testimonies and data protection issues

Archiving of individuals testimonies who participate in NCF these testimonies-records should be treated as health or care testimonies-records and archived accordingly and as a historical record.

We understand from the National Archives of Scotland that there is precedence for archiving records which relates to Crofters testimonies who suffered serious ill treatment. (we hope to provide the committee with the specific details in due course).

Destroying all the evidence given to TTBH was a great loss and also had a detrimental impact on the health and wellbeing of those who participated in Time To Be Heard on hearing this.

#### Proposed Memorandum of Understanding between the Parties

We welcome the Mental Welfare Commission (Donald Lyons) comments and commitments to engage going forward with victims-survivors directly affected by these issues in relation to the setting up of the National Confidential Forum being proposed.

We would like to see the MOU agreement have input by the various parties including victims-survivors representation to help shape and form the proposals between the parties on the issues directly pertaining to the victims-survivors. In addition this MOU may require independent scrutiny by others.

Also the MWC comments regarding the badging of the NCF and its operational independence and its governance in this particular structure is appreciated.

We welcome also Donald Lyons of the MWC comments regarding the following. "the Mental Welfare Commissions strategic aims in relation to individuals wellbeing and enhancing individuals rights"

We would like all the processes to be person centred while placing participants needs and expectations at the centre of all the decision making processes.

We would wish to ensure that there is complete clarity for participants about the processes they will engage in without any ambiguity. That any information packs produced for NCF spell out clearly the processes information is non-jargon and easy read formats while setting out the processes with clarity, to enable participants to make fully informed choices.

#### Interim and Final Reports compiled by NCF and its Commissioners

We welcome comments by the former TTBH Commissioners and the SHRC regarding the codifying of participants testimonies as recommended by previous witnesses who were victims-survivors. The Ryan report as highlighted by the Scottish Human Rights Commission is a good example where codes were used in reports.

We also welcome comments by CELCIS, we would welcome further input into this particular important issue with the other parties. To help clarify issues relating to the compiling and publicising of such NCF reports, how and to what extent participants testimonies are presented/published/referenced/anonymised etc.).

#### National Confidential Forum (NCF)

There is a role for the NCF however currently the proposal is but one element and we would like the Scottish Health and Sport and Justice committees to consider and include other elements of investigations, redress, justice and remedies in the proposed legislation.

The role of the NCF to identify patterns and trends, and to make recommendations about policy and practice. We feel very strongly that the NCF should have powers to investigate and initiate enquiries.

For this to bring any real benefits to participants and society as a whole it would be more meaningful if there was a duty placed on the appropriate, institutions and organisations to consider and act decisively on the recommendations of the forum.

While addressing comprehensively the issues that victims - survivors have in conjunction with the other parties while address and meeting all the needs and expectations of those who suffered ill treatment.

#### Health Committee

We welcome comments made by the Children,s Commissioner in relation to the Powers, Purpose and Functions of the current NCF including deficits in the processes relating to the lack of justice, investigation, reparation, redress and remedies.

In addition to comments made by CELCIS and the Scottish Human Rights Commission regarding a one door process currently with no choices or other options of redress, justice nor remedies. This continues to be a source of real tension between those directly affected by these issues and those parties with collective responsibilities of addressing the outstanding issues including the State.

If this is about addressing the health and wellbeing of those who suffered ill treatment in the past Scottish care system. Witnesses directly affected by these issues and others have provided strong evidence to the Health and Sports Committee regarding the deficits in the current proposals in relation to (Victims and Witness Bill Scotland) regarding the proposed National Confidential Forum, legislation.

We would kindly request that the Health and Sports and Justice committees to now take this opportunity to address those deficits.

We would like to thank the Scottish Health and Sports Committee clerks, members and the Convenor, Duncan McNeil for their time, thoughtful and valuable insight into these matters, while scrutinising these issues.

**Jennie Bristow**  
**Secretary**  
**Former Boys and Girls Abused in Quarriers Homes**

19 April 2013