

Susan O'Brien's abuse inquiry claim for damages rejected

Gurpreet Narwan July 6 2017, 12:01am, The Times

The former chairwoman of Scotland's child abuse inquiry has lost a £500,000 damages claim against the Scottish government.

Susan O'Brien, QC, resigned in June last year after formal proceedings were launched to remove her as a result of claims that she made comments that were "offensive" to survivors.

The lawyer said she resigned because she could not reassure the public that the inquiry would be conducted independently of government, and she had been left with no alternative.

A case lodged at the Court of Session in Edinburgh against the Scottish government said the motion to remove her from chairing the inquiry "constituted a material breach of contract" and was against her rights under the European Convention on Human Rights.

She was seeking damages of £500,000 but a written judgment by Lord Pentland ruled against the action. In his conclusion, the judge said: "The pursuer has not pled a relevant case of breach of contract or infringement of her Article 8 rights. In consequence, the action must be dismissed."

A Scottish government spokesman said: "We welcome this decision, which confirms that ministers acted lawfully in exercising their responsibilities under the Inquiries Act 2005 and other relevant legislation.

"The judge has confirmed that the decision by ministers to undertake an investigation was, in the circumstances, appropriate, proportionate and fair."

Giving evidence at the inquiry yesterday, David Whelan, who says he was abused at a care home in Renfrewshire between 1969 and 1974, said former staff were integral to improving the inquiry's understanding of the institutions under examination.

Abandoned by his parents, Mr Whelan was raised at Quarriers Children's Village in Bridge of Weir, Renfrewshire. The organisation was founded to offer a "loving family" to orphaned and destitute children but Mr Whelan recalls being abused by an employee in the church bell tower.

He said: "I would like to encourage former employees, former 'Quarriers', to come and assist this inquiry and give this inquiry an understanding of the organisation, but most of

all I would encourage anyone who feels that they were harmed in these institutions, and not just Quarries, to come and tell their experience.”

Mr Whelan, who helped to establish a Quarries abuse survivors’ group, said many victims did not trust the inquiry. “Why would I want to trust anybody?” he said. “Now that I’m an adult, why would I want to trust a system that abused me as a child?”

More than 60 institutions, including several leading private schools and church bodies, are being investigated. The inquiry, now being chaired by Lady Smith, is expected to report in late 2019, four years after it was set up.