

The Inquiry process is but one element of the SHRC Interaction plan, Other elements such as reparation, support, apology etc are separate elements contained within the interaction plan and should be dealt with separately out-with any Inquiry process.

Establish an Advisory Group or Reference Group for this inquiry through CELCIS

With relevant representation of a broad scope of victims-survivors and others to include employee representation and institutional representation consider the invitation of experts to advise etc, to consider Terms Of Reference, Scope, budgetary and resource issues, Principles & Values, Protocols, Obligations, Recommendations, Past Inquiries to-date effectiveness and outcomes

Purpose of the Inquiry

An effective and comprehensive Inquiry should establish the facts while seeking the truth and to consider the extent to which State and Non-State institutions have failed in their “duty of care” to protect children placed in institutions in Scotland by various State and Non-State bodies.

To address any failings identified, to take any necessary steps that the State and Non-State institutions are required to take to ensure “Lessons are Learnt” and to help prevent repetition in the future. To publish a report and consider publishing interim reports on the facts and findings having regard to all the relevant duties of confidentiality, with relevant recommendations.

- Much has been learned from past reviews and inquiries and it is important that effort is not duplicated, but should investigate any work or actions undertaken previously such as the 1970s taskforce that may have prevented such abuse occurring where the task forces findings and recommendations were not implemented.
- The Inquiry process is wholly impartial and independent from, all the parties including the Executive and primary stake holders.
- The Chair and panel (assessors) are also impartial and independent appointments
- Perhaps consider a hearing process for the Chair and Panel (assessors) being considered as appointees which includes representation of victims- survivors.
- The Inquiry process is a fair hearing process and upholds the Rights of All
- The Inquiry process should be effective & comprehensive and be as open and transparent as possible
- The Inquiry should seek the Truth and the Facts in relation to institutional child abuse,
- The timeline of the inquiry should be determined by scope and terms of reference a reasonable timeline in our view is a minimum 2-3 years which includes a review to determine if any extension is necessary for the Inquiry to complete its work.
- The Inquiry should ensure it has collected all the facts, within the timeline designated and completed the reporting of the facts and findings, ensuring right of replies for all who may be subject to allegations or criticism prior to it reporting.
- The Inquiry should ensure equal legal representation for core participants and primary stakeholders such as victims-survivors and appropriate legal and advocacy for others who may be adversely affected and who may give testimonies to assist the Inquiry
- The Inquiries upper limit should be the date of the announcement in Parliament by Cabinet Secretary Angela Constance 17/12/ 2014. The lower limit should be within Living Memory.
- Review child migrant schemes pertaining to Scotland ensuring that any allegations by child migrants passed to the said Inquiry are passed on to the relevant Inquiry or relevant police force where the migrant currently resides or was placed.
- Review institutional responses to past reports of abuse made by former residents
- Review the records and any destruction of any records that may have assisted the Inquiry

Types of abuse:

Types of abuse covered by the said Inquiry should be any criminal acts, neglect, physical, emotional, sexual, and any abuse of human rights of former residents, including medical experimentations. Failures of institutions and others to act on reports by former residents of abuse.

Definition of a Child:

The United Nations Convention on the Rights of the Child defines child as "a human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier".

Special consideration have to be given to former residents who had or have learning difficulties as the State has a continued responsibility in some cases past the age of 18.

Protocols

- Procedural protocol to be followed by the Inquiry
- Redaction, Anonymity, and Restriction orders protocol to be followed by the Inquiry
- Protocol for the sharing of relevant information with the other Inquiries currently being conducted in the UK and Northern Ireland. Ensuring no gaps exist and investigating any cross border issues were children in care in the past in Scotland were taken on trips or other such vacations or treats outwith Scotland and where allegations have been made
- Data Protection protocols

Principles- Obligations

The Inquiry will have full unfettered access to all the material and records it needs

The Inquiry will act in as open and transparent manner as possible

Any allegation of child abuse received by the Inquiry will be referred to the police

All personal and sensitive information will be appropriately protected; and will be made available only to those who need it.

It is not the said Inquiries function to determine civil or criminal liability of named individuals or organisations. This should not however inhibit the Inquiry from seeking the truth, nor from reaching findings of fact.

It is not the said Inquiries function to determine any compensation or redress liability nor make any findings or recommendations as to redress or compensation.

There are no conflicts of interests that impeded the work of the Chair and Panel, or assessors in carrying out their functions and role.

Scope

The scope of the Inquiry is defined by the Terms of Reference which state that "Inquiry and Investigation" into historical institutional abuse will examine if there were any failings including systemic failings by institutions, State and Non State bodies, in their duties of care towards children in care between the years 1920 to 2014 (within living memory). Including reviewing any migrant issues pertaining to children sent by Scottish institutions, state and non state bodies abroad.

Qualities required for the Chair of the National Inquiry

Absolute impartiality and independence from the executive, a proven track record of holding state and non-state institutions to account, and the forensic skills necessary to digest and analyse vast quantities of evidence. a judge with a longstanding commitment to the promotion and protection of human rights, one who has the courage, independence and vision required to run a major national investigation into the failure to protect vulnerable children against sexual physical and emotional abuse.

- Independent and Impartial from the Executive
- Hold to account the State, Executive and Institutions and State bodies and others
- Forensic Skills
- Passionate for Justice for victims-survivors
- Expose institutional systemic failures and other past systemic failures in the Scottish Care System
- Have courage to do all of the above

Skills

Team Leadership, Respect, Authority, Objectivity, Professionalism, Resilience.

Expertise

Promotion and protection of human rights, Understands the issue of institutional abuse and its impact and effects long term of those who have suffered such abuse.

Has worked with vulnerable individuals on sensitive issues, and or in complex investigations and complex lines of inquiry that involves the collection of vast amounts of evidence and of analysing of such evidence. Operate in challenging circumstances, media.

Panel (Assessors)

- Similar qualities as above but

Skills

- Promotion and protection of human rights,
- With a wide range of skills including some of the above in addition Justice system, Social Work, Health, Investigatory, research, counselling, collecting of evidence and analyzing of such evidence, interview skills etc.

Due Diligence

- No personal links to those who have been convicted or the subject of police investigation, of child abuse
- No Direct or in direct links to key institutions which may be the subject of allegations or criticism
- DBS enhanced checked

Former Boys and Girls Abused In Quarriers (FBGA)