

Judge leading child abuse inquiry ruled against claims for damages

● Lady Smith rejected attempts to have three-year time bar set aside in eight cases

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The judge in charge of Scotland's child abuse inquiry was among those who rejected attempts by survivors to win compensation through the courts, it has emerged.

Lady Smith presided over eight cases where victims sought damages for historical abuse suffered in children's homes.

MSPs are currently hearing evidence on the Scottish Government's plan to set aside the three-year time bar which can prevent survivors of child abuse bringing a civil case.

The Limitation (Childhood Abuse) (Scotland) Bill would abolish the time bar in cases of childhood abuse dating back to 1964.

Opponents of the plans argue the current legislation allows judges to exercise their discretion in setting aside the time bar. But campaigners claim that in the 40 years between 1973 and 2013 not one case led to a judge making that decision.

Appearing in front of Holyrood's justice committee earlier this week, Harry Aitken, a former resident of Quarriers Homes, said the time bar made it difficult for survivors of historical abuse to seek justice.

He said: "In the 40 years since 1973, [in] not one case from a historical abuse situation in residence was the discretion of the judge invoked. Not one case.

"Lady Smith presided over eight cases lodged by former Quarriers residents and in every case they were refused the discretion. Four of them had already been proven in the criminal court, they had secured a conviction for their abuser and still they were refused discretion."

Mr Aitken said the removal of the time bar would have a "dramatic impact" on the lives of survivors.

He said: "[There are] thousands of survivors in this country who suffered the most terrible, horrific abuse and they are still suffering that abuse to this day.

"They end up in many cases in hospital, the criminal justice system, in prison or, worst of all, there are friends of ours who have suffered so badly they take their own lives."

It is understood the cases considered by Lady Smith were heard as far back as 2006.

The judge was appointed to lead the child abuse inquiry last year following the resignation of its previous chairwoman, Susan O'brien QC.

A spokesperson for the Judicial Office for Scotland said: "The exercise of judicial discretion in considering whether to override time-limits will depend on a number of factors, applying the relevant law to the circumstances of the particular case."