

## **Note of Ministerial Meeting 30 September 2009**

### **Present**

**Shona Robison (Minister for Public Health and Sport) Lead Minister**  
**Fergus Ewing (Minister for Community Safety)**  
**Adam Ingram (Minister for Children and Early Years)**

**Jean MacLellan, Jeannie Hunter, Sue Moody (Adult Care and Support Division)**  
**Anne Hampson (Civil Law)**  
**Janine Kellett (Looked After Children)**

Agreement was reached at the meeting to conduct a pilot of a forum to give adult survivors of in-care abuse the opportunity to describe their experiences. The proposals contained in the submission to Ministers of 24 September were accepted. The following issues were raised and discussed:

### **Confidential Committee Model**

There was discussion instigated by Mr Ingram about the strength of the model being proposed and whether a confidential committee would be ambitious enough, particularly since it was proposed that the institution from which survivors would be drawn should not be given any formal status at the Pilot Forum. Officials noted the difficulties (revealed in the work of the Irish Commission on the Investigation of Child Abuse) associated with institutions' direct involvement in the process, as the Pilot Forum would then have to consider evidence from both parties. All parties would have to be given legal representation. This could radically alter the nature of the process, making it more difficult to create a therapeutic environment, adding hugely to costs, creating possible delays and taking the focus away from survivors. Institutions might refuse to take part in such a 'fact-finding' process. Ms Robison stressed the therapeutic nature of the Pilot Forum. The extensive consultation that had taken place with survivors and the significant contribution made by of the National Reference Group taking forward the SurvivorScotland Strategy were noted.

### **ACTION**

It was agreed that consideration should be given to finding ways of involving the pilot institution which would not adversely affect the process, through, for example, restorative justice approaches.

### **Pilot Forum Name**

It was agreed that the current name 'Acknowledgement and Accountability' was not an accurate representation of what was proposed and was not favoured by those who responded to the Consultation Exercise.

### **ACTION**

The Pilot Forum Advisory Group should be asked to consider a more appropriate title, drawing on the views of the consultees.

**Quarriers**

The choice of Quarriers as the site for a pilot was considered. Mr Ingram expressed the need to move on from the impact that institutional abuse has had on Quarriers' reputation. It was agreed that a forum could provide institutions with a chance to come to terms with what had happened and move on and Quarriers would be a prime example of this. The advantages of siting the pilot with Quarriers' survivors is that Quarriers is a national organisation that took placements from right across Scotland, there have already been successful prosecutions and therefore proof of harm exists, the organisation keeps good records so that it should be easier to contact survivors and the Chief Executive, Phil Robinson, has offered to work with us. He is approaching this with the best of motives and is very keen to assist.

**Action:**

Ways of giving Quarriers more active involvement in the forum will be discussed with the organisation, particularly the use of restorative justice approaches.

**Time Bar**

There was some discussion around the current difficulties for survivors arising from a strict application of the three year time bar in civil actions. Given the likely impact of the time bar difficulties on survivors' perceptions of the value of any forum it was agreed that Ministers need to take care in framing a response to the SLC report and to consider the options open to Scottish Government in this respect.

It was noted that the Scottish Human Rights Commission had named Adult Survivors as one of their 6 priority areas and that the Commission would be looking into the time bar as part of their work.

**Action:**

Mr Ewing agreed to further explore the SG position on these issues, and Health officials said that they would try to find out more about the SHRC's work on this.

**Update**

*SHRC has advised that the time bar issue is very likely to form part of the human rights framework that they are designing for the Pilot Forum. Under Article 3 ECHR the State has a general responsibility to provide access to effective remedies where there are allegations of abuse or neglect. This obligation is particularly strong where the abuse or neglect is alleged to have occurred at a time when the State had specific responsibility for the children concerned. SHRC are also looking to assist litigants in a relevant case concerning the time bar.*