

# Scottish Child Abuse Inquiry

PO Box 24085; Edinburgh EH7 9EA

e-mail: [talktous@childabuseinquiry.scot](mailto:talktous@childabuseinquiry.scot)

## Factsheet – positive experiences in care

This factsheet is for anyone who wants to tell the Inquiry about their own or others' positive experiences of being in care as a child.

### What's a public inquiry?

A government minister can establish a public inquiry to investigate and report on a matter of public concern.

A public inquiry is impartial and completely independent of government. Its conduct and procedures are determined by the Chair but they usually include recovering relevant documentary and other evidence, taking statements, holding public hearings where oral evidence is given, analysing the outcome of their investigations and evidence gathering, and making recommendations in its report(s).

### What's this Inquiry about?

SCAI's tasks are determined by a government minister and are set out in its wide Terms of Reference ("ToR").

SCAI's ToR direct it to investigate the abuse of children in care in Scotland. That includes identifying the nature and extent of that abuse, its impact on children and their families, whether those responsible for the provision of care failed in their duties, whether any failures have been rectified and whether changes to the law, policies or procedures are required.

In the course of its work, SCAI's procedures include case studies in the course of which the provision of care by a particular organisation or of a particular type are investigated and examined. They are usually presented at public hearings. Case study findings are usually published following the close of a case study.

When SCAI has completed its work, it will present a final report to the Scottish Parliament.

### What powers does SCAI have?

The Chair of SCAI has various powers. They include the power to require individuals and organisations to provide relevant documentary and oral evidence.

Whilst the Chair of SCAI is a senior Scottish judge, SCAI is not a court. SCAI's purposes do not include determining whether any person or organisation is liable to pay compensation or whether any crimes have been committed. The Chair does not have power to award compensation nor does she have the power find anyone guilty of having committed an offence.

### **Can I give evidence to the Inquiry?**

**Who** – You can give evidence if you tell us you were, or the other person you tell us about was, under the age of 18 when in care.

**Time** – You can give evidence if you tell us you were in care at any time within living memory up to 17 December 2014.

**Circumstances** – You can give evidence about any residential care (such as a children's home, boarding school, List D school, or foster care).

### **What does the Inquiry do?**

The Inquiry collects evidence and information about experiences of children in care. It does this, among other ways, by speaking to people and preparing witness statements for them.

The Inquiry also collects documents from people and organisations. The documents include records about the care of children, reports of abuse, and documents about procedures, policies, the law and other investigations.

The Inquiry holds hearings where evidence is heard.

### **Talk to us**

You can tell the Inquiry about your positive experiences, or the positive experiences of others, whilst in care as a child. Talking to us will help us build a clear picture of what happened to children in care in Scotland in the past. It doesn't matter if the residential care in which you, or the other person, were placed no longer exists, or if the foster parent(s) have died.

By talking to us you will help the Inquiry make recommendations to protect children in Scotland better in the future.

### **How to talk to us**

#### Contact us

Contact the Inquiry's witness support team to let us know you are interested in talking about your experiences. You can:

- phone: on 0800 0929 300
- email at: [talktous@childabuseinquiry.scot](mailto:talktous@childabuseinquiry.scot)
- write to: SCAI, PO Box 24085, Edinburgh, EH7 9EA

When you contact us, let us know if:

- you have any concerns
- you have a disability that may affect the way you need to share your experiences
- English is not your first language
- you need special arrangements because you are in a young offenders' institution, prison or something similar

### Apply

We will ask you to fill in a short application form. You can send the form to us by email or by post, or we can fill in the form with you over the phone. We will then check the form to see if your experiences are something the Inquiry can look into.

If the Inquiry can't consider your experiences we will contact you to discuss this with you as soon as possible.

If the Inquiry can consider your experiences we will contact you as soon as possible. You can change your mind at any time if you decide you don't want to talk to us or need more time.

### Your evidence and witness statements

Our witness support team will discuss with you how best to obtain your evidence. It may, for instance, be obtained by you telling the Inquiry about your experiences, or experiences of others, at an interview. A witness statement will then be prepared.

It may take us time to arrange an interview near you. This does not mean that your experiences are not important to us.

Members of the Inquiry team will meet you at an interview. They will help you to talk about your experiences and memories. You can go at your own pace and have breaks whenever you want.

Before we meet you it may help to think through what you would like to speak about, so you can share your experiences to the best of your ability and within the time available.

It helps the Inquiry if you can speak about your life before going into care, your time in care, and your life after care.

We record interviews with witnesses to help us prepare your witness statement. We will ask you to read over the statement and sign it once you are content with it. If you have a disability or a difficulty which affects reading over your statement we can tailor the process to assist you.

The witness statement will be your evidence to the Inquiry. It will be a formal, permanent record of what you tell us. You cannot withdraw or amend your statement once you have signed it. But you can make a further statement if you want to say something more or different.

### Inquiry hearings

Some witnesses will be asked to give evidence at a public hearing. Not everyone who has given a witness statement to the Inquiry will be asked to do so. The statements of some witnesses who do not give oral evidence may be read aloud by counsel to the Inquiry at public hearings.

Inquiry hearings are more formal than private sessions. The Chair of the Inquiry will preside over the hearing and she may ask questions. Counsel to the Inquiry will be present and they will question the witnesses. Core participants and/or their lawyers may be in the room. A core participant is someone who has played a particular role in relation to the subject matter of the Inquiry or has a particular interest in the Inquiry, or who might be subject to significant or explicit criticism. The Chair decides which people or groups should be core participants.

Members of the public and press are usually in the room. However, if you are giving evidence at an Inquiry hearing, your identity will be kept private (unless you decide that you do not want that).

Witnesses who feel they need special measures to be taken in order to support them giving evidence, such as giving evidence from behind a screen or in private (with only key people in the hearings room), should raise their concerns with their witness support officer. The Chair will then decide whether it would be appropriate to make arrangements to accommodate their concerns. She may require further information before making a decision.

Every witness, when giving evidence, must promise to tell the truth. To do that the Chair will put each witness on oath or will ask them to affirm.

The Chair will not allow any witnesses to be questioned aggressively. What you say may, however, be tested in questioning as a matter of fairness to all. You may be able to claim expenses, including travel expenses, for giving evidence at a hearing.

### **What will the Inquiry do with my witness statement?**

The Inquiry will consider carefully all witness statements and other evidence it obtains.

We intend to publish witness statements on the Inquiry website. However, you will normally have a right to anonymity and your identity will be protected by appropriate redaction of your statement (blacking out of certain information). For more information, see our [Protocol on Redaction](#).

### Sharing names

We may have to disclose your name and your statement to the organisation responsible for your care at the time. We would disclose that information on a strictly confidential basis. We have to do this to be fair to everyone involved in the Inquiry.

We may also have to disclose your name to people or organisations who hold information that we need. Again, we do this on a confidential basis.

If you wish us to consider not disclosing your name in any of these ways, you need to apply to the inquiry for a 'restriction order' as soon as possible. Please see the [Protocol on Restriction Orders](#) for more information, where you will also find an application form.

### Reporting to the police

We have to disclose to Police Scotland the identity of anyone who we are told has abused children. This is because Police Scotland must be able to assess the current risk that person may pose to children and/or vulnerable adults. It is not for us to assess that risk.

We will also disclose to Police Scotland any information we receive which suggests that anyone is at risk of harm or that there is a risk to their life.

If we are given information indicating that an applicant, witness or person named as an abuser within the Inquiry process is being or has been harassed or intimidated, their identities will be disclosed to Police Scotland.

We may also have to pass on your name in these circumstances.

### **Do I need a lawyer?**

You do not need a lawyer to make contact with the Inquiry, or to come to an interview. We are wholly independent and you will be treated fairly.

If you want a lawyer you can arrange this at any stage. The Inquiry may be able to help you pay for a lawyer if you need legal advice to help you engage with the Inquiry but cannot afford the cost yourself.

### **For more information you can contact our witness support team:**

- by phone on: 0800 0929 300

- write to: SCAI, PO Box 24085, Edinburgh, EH7 9EA
- email at: [talktous@childabuseinquiry.scot](mailto:talktous@childabuseinquiry.scot)
- look at our website at: [www.childabuseinquiry.scot](http://www.childabuseinquiry.scot)
- follow us on Twitter: @ScottishCAI

**For general enquiries:**

- email at: [information@childabuseinquiry.scot](mailto:information@childabuseinquiry.scot)

## **PRIVACY NOTICE**

This notice explains how we collect and handle your personal data.

We are an independent public inquiry and we exercise statutory functions under the Inquiries Act 2005, in the public interest. We investigate the abuse of children in residential and foster care and we will publish a report or reports. We need to process personal data to enable us to carry out our work.

We explain in this notice in general terms how we collect and handle personal data.

### **Why we process your personal data**

We process (or use) your personal data for a number of reasons, but all of those reasons help us to fulfil our Terms of Reference, which we are legally required to do.

### **How we collect personal data**

When someone visits our website we collect information to measure the use of the website. We do not collect information that identifies anyone but we do track how many individuals have viewed different pages, so that we know what information is of most interest to the general public. Further information is provided on our website:

<https://www.childabuseinquiry.scot/terms-and-conditions/>

If you contact us by telephone, email or letter, or if you use the contact form on our website, we will retain the personal data which you provide to us, and we may use it to contact you about the work of the inquiry. We may also use it to help us with our investigations including our timetable and to help us decide which institutions may need the closest investigation.

We also recover records from a range of sources, including providers of care, local authorities, the police and the Scottish Government.

### **What sort of data we collect**

We collect data about children in care, data about the commission of acts or omissions that constitute abuse and data about the impact of abuse. We collect and retain contact details, and data known as special category data and information about criminal convictions.

The records that we recover might include personal data including sensitive personal data, relating to criminal convictions, offences, or a person's sex life or sexual orientation.

### **How personal data is held**

We keep your personal data secure and only share it with those who need to see it.

Personal data is held in secure encrypted electronic storage systems that are only accessible by members of the Inquiry team. Any hard copy information is held in secure conditions within premises to which members of the public do not have access.

All personal data we receive is handled fairly and lawfully in line with data protection legislation.

### **Who will personal data be shared with**

We may have to disclose personal data, on a confidential basis, to organisations which provided residential care or people named as abusers, to organisations which hold records which could assist the Inquiry with its investigations, to experts or to the police.

In some cases your data may be made public, to allow us to fulfil our terms of reference. The Inquiry is extremely careful about what data is made public and we follow a very clear set of rules to make sure that this is done correctly.

Some people are entitled to remain anonymous (i.e. their identity is kept private), and any published information will hide any details that might lead to you being identified if you are entitled to anonymity. Who we consider is entitled to anonymity is set out in the Chair's General Restriction Order, which you can see here: <https://www.childabuseinquiry.scot/procedures/general-restriction-order/>

If you are concerned or unsure about whether your personal information may be made public, for example via our website or in a final report, you can ask our witness support team about whether you are entitled to anonymity.

### **Data controller**

The Chief Executive to the inquiry is our "data controller". This means that she is responsible in law for all our information - how it is held and how it is used or destroyed.

Each year the Inquiry registers with the Information Commissioner – who supervises the Data Protection Act in the UK. A copy of our current registration certificate is available here: <https://www.childabuseinquiry.scot/key-documents/ico-registration/>.

### **Data retention**

If you contact us by telephone, email or letter during the Inquiry, we will retain the personal data which you provide to us. We will do so solely to enable us to carry out our work. We will generally retain information for the duration of the Inquiry.

We are required to transmit certain records, including personal and sensitive personal data, to the Keeper of the Records of Scotland at the end of the Inquiry.

## **The legal basis for processing personal data**

We process personal data lawfully in compliance with the General Data Protection Regulation ('GDPR') and all other UK data protection legislation.

Our 'Lawful Basis' as defined by the GDPR is usually compliance with our legal obligation; sometimes it will be that we are carrying out a public task or pursuing our legitimate interest in fulfilling our Terms of Reference.

Complying with our legal obligation means: we process your personal data because it is necessary for us to comply with a law. In our case that law is set down in the Inquiries Act 2005. It is this Act that allows a minister to set up an inquiry and it tells us what we must do and how we must do it.

Carrying out a public task means that the processing we carry out is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in us. In our case, the entire purpose of this Inquiry is to benefit the public, by understanding what has happened in the past and to recommend improvements for the future.

Using the personal data in pursuit of our legitimate interest means that we are carrying out necessary processing for the purpose of our interest in fully carrying out our investigations, and creating a clear public record of the events, findings and recommendations. We can rely upon this lawful basis only when we believe our interest is not overridden by your fundamental rights and freedoms.

## **Your rights in respect of your personal data**

Sometimes the processing we carry out allows us to rely on one or more of the exemptions set down in the Data Protection Act 2018. If it does we then have to decide whether or not it remains appropriate to comply with your request to assert your rights under the GDPR. Sometimes it will be correct to comply even if there is an exemption that we can rely upon. Sometimes it will not be correct for us to comply - this will be especially the case if complying with your request would make it more difficult for us to fulfil our Terms of Reference or puts another person's personal data at risk of being revealed.

You have the right to request:

- access to the personal data we hold about you
- that incorrect information we hold about you, be corrected
- that we stop or limit the processing of data we hold about you
- that we erase the information we hold about you

In all cases we will consider your request very carefully. In some cases we might decline your request, if we believe that your information falls within one of the exemptions set down in the Data Protection Act 2018 and that compliance with your request may hinder our ability to fulfil our terms of reference.

## **COVID- 19: Return to Hearings**

This privacy statement has been updated in response to COVID-19 and is intended to provide information about changes in practice implemented for those visiting the Inquiry venue, and to reassure you that any information gathered in relation to the Test and Protect scheme is being shared appropriately by the Inquiry with NHS Scotland and all relevant public health bodies.

As part of NHS Scotland's Test and Protect Service, organisations have been requested to implement the voluntary process of gathering minimal contact details from customers or visitors when on their premises. This measure came into effect on 15 July 2020 and is part of the national effort to suppress the spreading of COVID-19.

As a result, visitors to the Hearings will be asked provide their name and telephone number. This information provided will be collected and held solely for the purpose of sharing with the NHS Test and Protect if requested and retained for no longer than 21 days. All contact information from visitors, collected by the Inquiry, will be processed in a secure and safe manner and in addition this will assist the NHS Scotland's Test and Protect service to identify and contact individuals who may have been exposed to the virus.

Where members of the public are attending hearings as a small household group, the contact details for one member – a 'lead member' – will be sufficient and the size of the group will be noted.

Our 'Lawful Basis' for processing this information (as defined by the GDPR) qualifies under the lawful basis of 'Legitimate Interest'. As providing this information is voluntary, you have the right to object and/or request for your data to be erased. The Inquiry will respect your choice to refuse to comply with this process. However, please be aware that the Inquiry also has the right to refuse entry to the Hearings.

Although collecting contact details for Track and Protect is voluntary, it is critical to national efforts to suppress the virus.

### **Contact and complaints**

If you wish to contact us about the terms of this privacy notice, please write to [kathleen.wilson@childabuseinquiry.scot](mailto:kathleen.wilson@childabuseinquiry.scot)

If you wish to make a complaint about how the Inquiry has handled your personal data, in the first instance please contact [kathleen.wilson@childabuseinquiry.scot](mailto:kathleen.wilson@childabuseinquiry.scot)

If you are unhappy with the outcome of discussions with us you are entitled to contact the Information Commissioner's Office online at: <https://ico.org.uk/concerns/getting/>, by calling their helpline on 0303 123 1113 or by writing to them:

UK Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

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