

KNX/1/50

Includes revised remit

pages 572-577,

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**Briefing Note for Mr Peacock's meeting with INCAS on Tuesday 23<sup>rd</sup> November 2004 in Room Q107, Queensberry House at 4.30pm**

1. The Minister is due to meet with representatives of INCAS on 23<sup>rd</sup> November. I understand that those present will be Mr Chris Daly (the petitioner) and Mrs Helen Holland (vice-Chair, INCAS). Mr Alan Draper will not attend due to ill health (he is currently in hospital).
2. I attach some suggested lines to take and some brief background notes. In particular I would draw the Minister's attention to the suggested remit for a reference group on residential accommodation and the protection of children in care.
3. Should the Minister require any additional briefing or amendments to the attached please let me know.

*Sharon Donnelly  
Sister of John?*

SHIRLEY LAING  
ED-LACY 1  
[REDACTED]

19th. November 2004

**General Lines to take:**

Pleased to have the opportunity to meet with you in advance of the Committee Debate on 1<sup>st</sup> December.

I know you have had a number of detailed discussions with my officials but I wanted the opportunity to hear your concerns first hand. [Minister may wish to ask what they see as the key elements of an inquiry; what would it look and feel like to INCAS?]

Want to begin by making clear that I fully respect your views and understand your wish to have what happened to you looked into in more detail. I can understand why you would want to know the answers to questions such as: Why did this happen? Why was this allowed to happen?

I want to do what I can to support and help you in this. Planning a number of actions which I hope you will find helpful.

- You have already had the **redaction process** explained to you and been shown some files. All files should be available for the public to view from January 2005.
- I wrote to the Catholic Church, Church of Scotland, Barnardo's, Quarriers, Care Commission and local authorities on 18<sup>th</sup> November making them aware of the actions the Executive is taking to make all relevant files held available for public inspection and seeking confirmation that they are willing to make any information held available on a similar basis. We await their responses.
- I understand that you have submitted a bid for **funding** to the Executive. I can confirm that we will be happy to provide some support to enable you to build up your capacity to provide peer support. My officials will discuss the detail of this – around exact levels of funding, services to be provided, audit and management frameworks - with you.

- I have been giving consideration to what sort of research in this area might prove helpful in meeting your needs and am minded to establish an independent reference group with a remit:

*1. To review the support available to survivors of abuse carried out in care settings, and make recommendations on how to improve that support*

*2. To listen to the experiences of those living or working in residential care for children – both now and in the past – including, of course, those who have survived abuse. To review research and other evidence, including the findings of inquiries. To help us understand the past and to identify any issues still affecting those in care homes.*

*3. To review the standards, regulation, quality assurance and inspection systems that applied to residential care homes in the past and today. To help us understand why abuse was able to happen undetected – and to identify any further work we need to do to reduce the risk of abuse, or to deal more effectively with abuse when it occurs.*

The membership of any such group has still to be considered however I would welcome your views on this suggestion.

[NOTE – you are also doing other things – such as the time bar work – but may want to hold them back until the speech. We can discuss tactics before you meet INCAS. You should assume anything you say to them will be public before the debate].

### Background Information

#### What INCAS want:

Executive officials have had several discussions with Mr Daly and the vice-chair of INCAS, Helen Holland, to establish what types of action INCAS members would find of help. From these discussions it was clear that their priorities were as follows:

- **An apology from the State and from other institutions** – of prime importance to INCAS (they were unanimous in calling for this at their AGM held on 24/10/04) is that the Church, State and other institutions make an unreserved apology for the abuse which occurred.
- **Access to appropriate counselling and support for survivors.**
- **Compensation.** There are a range of views on this issue. What is clear however is that those who are unable to bring civil cases at present due to the prescription of the law on limitation are keen to have a compensation scheme.
- **A public inquiry into past abuse** – there are really two strands to this request.
  1. An inquiry into, and explanation of, why institutional abuse was able to happen. Such an inquiry should establish the nature, cause and extent of the abuse which occurred as well as the circumstances in which it was allowed to happen.
  2. An opportunity for individuals to be able to discuss their experiences of abuse and to be listened to, and believed, by an informed and sympathetic audience.

### WHAT THE EXECUTIVE IS DOING

- **Access to information**

#### *1. Redaction of Files*

Files held by the Executive which hold information on residential establishments are being redacted so that they can be made available to members of the public to view. It is hoped to be able to make the files available by the end of this year

Redacting is the process of blocking out names and other sensitive information so that files can be made public without damaging individuals' legitimate interests. When a file is redacted each piece of information which is blocked out is given a code. When an individual contacts the Executive they will be advised if their name appears on any of the files held. If it does the Executive will tell the individual and inform them of their personal code. This will allow them to access the relevant files and read any personal information pertaining to them whilst protecting the rights of others.

Access to un-redacted files, and thus personal information relating to a third party, will be made available by the Executive only where an order from the court has been obtained.

The redaction of files meets the aims of the Code of Practice on Access to Scottish Executive Information, the spirit of the FOI (Scotland) Act and the requirements of the Data Protection Act. The redactions to the files are allowable within the terms of FOI and are required by DPA. The Executive is therefore acting in the spirit of FOI, whilst still protecting personal data, in agreeing to release this information.

- **Support to Survivors**

1. *Current support*

The Executive directly supports a range of survivor and victim support services in Scotland, and there are many good and valued services available, and more are developing all the time e.g. within Children's services, for those with mental health problems, and from implementing the Domestic Abuse and Victims' Support strategies across Scotland.

2. *Funding for INCAS*

INCAS has submitted an application for funding of £389,194 over 3 years to cover:

- Employment of experienced staff to ensure a high quality professional counselling service to survivors of in care abuse.
- Provision of comfortable and confidential environment in which to provide counselling.
- Development of a free phone helpline where people can access help and advice from trained and experienced counsellors.
- Establishment of a network of volunteer led autonomous self-help groups to ensure information available to survivors/victims.

Services would include:

- Provision of support – advice, advocacy, information and counselling – to victims of in care abuse (historical or otherwise).
- Collection, collation and dissemination of information to statutory bodies and others on the effects of abuse.
- Provision of expertise and advice to statutory bodies.
- Assisting survivors in tracing family, friends and fellow survivors.
- Campaigning against abuse.

Given that INCAS is a fairly new organisation we feel the above may be somewhat ambitious. Officials would like to discuss the detail further with INCAS and pursue with them the possibility of a more established organisation (such as Who Cares?) acting as a host organisation until such time as they have a solid foundation to build on and the appropriately constituted management and financial arrangements in place.

- **Child Protection**

Following previous reports and inquiries, the Executive has implemented a range of measures which, taken together, provide greater protection for all children, including those in residential care homes. These include:

- Since 1995, HMIE has regularly inspected boarding schools and hostels.
- Since April 2002, the Scottish Commission for the Regulation of Care has inspected children's care homes.
- The Protection of Children (Scotland) Act 2003 will provide a list of people unsuitable to work with children (paid or voluntary work).
- The child protection reform programme will provide extensive advice and guidance, staff development and a rigorous inspection regime.
- In 2004, the Executive issued the Children's Charter which sets out what children, parents and communities can expect from child protection agencies. Protecting Children and Young People – The Charter and a Framework for Standards were published in March 2004 to help translate the charter into practice