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(Pg 338)

**Laing SG (Shirley)**

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**From:** Edgar R (Rachel)  
**Sent:** 29 October 2004 20:34  
**To:** Minister for Education and Young People; Deputy Minister for Education and Young People  
**Cc:** MacLean CR (Colin); Laing SG (Shirley)  
**Subject:** Historic abuse and INCAS

Ministers,

I thought it might be useful to provide an update on discussions with INCAS.

We have met with Chris Daly and with Helen Holland (the deputy chair) twice more since the petitions committee. The first meeting went well until the last 20 minutes when it became tense and angry reverting to questioning about why we will not hold an enquiry. Both later phoned and said they regretted what had been said. The tone of the second meeting remained positive throughout, and it appears that they value the dialogue (their AGM voted unanimously on Sunday to continue it). In the second meeting yesterday, they informed us that they had heard that there would be a full debate in the parliament scheduled for all afternoon on the 1st of December. We have since confirmed that this is the case, although are awaiting further information about the format of the debate.

I think that we are now clearer about what is most important to INCAS (although recognising that there are a range of individual views and needs within the organisation):

- **An apology from the state and from the institutions.** Although a small number of people recognise how far your comments went at the committee, most did not hear it as an apology. It is perhaps more the local authorities than the Scottish Office that are seen as culpable but there is a strong sense that the First Minister should apologise for what happened to children while in the care of the state, in the way that Bertie Ahern did in Ireland.
- **Access to appropriate counselling and support for survivors.**
- **An explanation of why institutional abuse was able to happen.**
- **Compensation.** There are a range of views on this issue. Those who were abused pre-1964 (and are therefore unable to bring civil cases at present) are keen to have a compensation scheme. Others are either not interested in compensation, or many would not want to waive the right to sue in the civil courts, although may be happy to waive the right to sue the state if they could still sue the institutions.

There is an increasing recognition of the limits of an enquiry, but I think that they still pin their hopes on the debate leading to a full public enquiry. If that does not happen however, they will be happy to continue to explore the other options. We are considering what you might be in a position to say by the 1st:

We will explore further with OSSE what exactly the risks of a full apology are. The compensation issue is complex and we would be in a better position to consider it once the first main civil action is over and we know whether the courts will hold the Scottish Executive responsible. We might then be in a position where it would be pragmatic to put money into a compensation scheme to save on legal costs. At this stage it is impossible even to calculate the likely costs. Designing such a scheme however will always be a challenge and the outcome will almost inevitably be contentious, particularly re. the amount given, whether that varies with different types of abuse, and what evidence a person would have to produce to become entitled and then whether that evidence would be open to challenge from those who are alleged to have carried out the abuse.

Access to counselling and support is an area in which we should be able to demonstrate action by the 1st. There is a clear sense that there are not adequate services available. Some action has been taken by the health dept in the past to encourage health boards to make adequate services available (particularly to survivors of sexual abuse) but there are significant gaps in provision. Some sort of working group to look at

the existing provision and identify gaps (perhaps helped by some research) would seem to be the way forward. There is also a role for peer support, and INCAS currently have a bid in to the health dept for funding to deliver some peer support/counselling. The result of that bid will be known in mid-November. If it is not successful, we would wish to explore providing some support to the group for capacity-building to allow them to participate effectively in developing services for survivors.

An explanation is more difficult as we have ruled out a SWSI inquiry (which in any case would not be appropriate given that we are talking about events that occurred many years ago in institutions, many of which have closed or are now of a different nature). Research into the scale of the problem might meet some of the needs, but may lead to suggestions of a cover-up or need for a public enquiry depending on its outcome. I don't think that we will be a position to address this by the 1st.

Where the discussions have been successful so far are in explaining how different the current system is and in convincing them that we are being as open as possible about our files. We are also exploring with Glasgow CC issues about particular files that one of the INCAS members is seeking, and I have spoken to Michael McGrath (Scottish Catholic Education Service) and he has agreed to try to find someone in the church to meet with me to discuss files and other issues.

I thought it would be useful to let you know how our thinking is progressing. I'd be grateful if you could indicate whether there are other avenues you would like us to explore. Unfortunately, I am now on leave for 3 weeks but Shirley Laing and her team are taking the work forward in my absence.

Rachel Edgar

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