

OFFICIAL-SENSITIVE

RESTRICTED HANDLING

SC(14)31st Conclusions

SCOTTISH CABINET

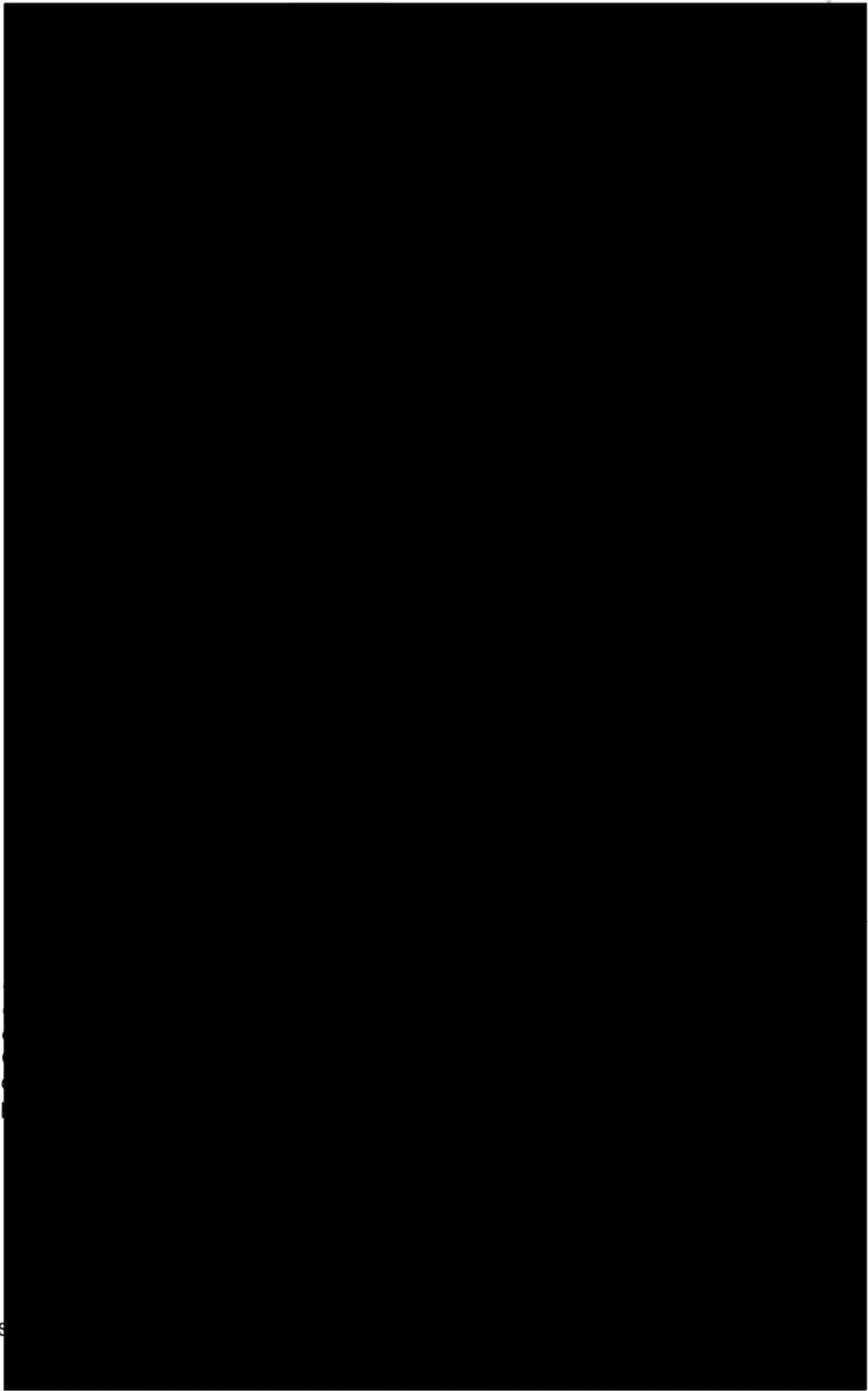
MINUTES OF MEETING HELD IN ST ANDREW'S HOUSE, EDINBURGH
AT 11.00 AM ON TUESDAY, 28 OCTOBER 2014

Present:	Rt Hon Alex Salmond MSP	First Minister (<i>by tele-conference; part of meeting only</i>)
	Nicola Sturgeon MSP	Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities
	John Swinney MSP	Cabinet Secretary for Finance, Employment and Sustainable Growth
	Angela Constance MSP	Cabinet Secretary for Training, Youth and Women's Employment
	Fiona Hyslop MSP	Cabinet Secretary for Culture and External Affairs
	Richard Lochhead MSP	Cabinet Secretary for Rural Affairs, Food and the Environment
	Kenny MacAskill MSP	Cabinet Secretary for Justice
	Alex Neil MSP	Cabinet Secretary for Health and Wellbeing
	Shona Robison MSP	Cabinet Secretary for the Commonwealth Games, Sport, Equalities and Pensioners' Rights
	Michael Russell MSP	Cabinet Secretary for Education and Lifelong Learning
In Attendance:	Sir Peter Housden KCB	Permanent Secretary
	Joe FitzPatrick MSP	Minister for Parliamentary Business
	David Rogers	Director of Strategy and Constitution
	Chris Birt	First Minister's Private Secretary
	James Hynd	Head of Cabinet Secretariat
	Geoff Aberdein	Special Adviser
	Campbell Gunn	Special Adviser
	Colin McAllister	Special Adviser
	Aileen Easton	First Minister's Official Spokesperson
	Gill Glass	PS/Special Advisers
	Robin Benn	Cabinet Secretariat
	Lucy Carmichael	Cabinet Secretariat

SC(14)31st Conclusions

1

OFFICIAL-SENSITIVE



Historic Abuse of Children in Care

7. Mr Russell said that, following previous discussions at Cabinet on the subject of historic allegations of child sex abuse (*SC(14)24th to 26th Conclusions refer*), he wished to update Cabinet on ongoing work on historic abuse and child protection issues. The previous day, he had announced the Scottish Government's response to the InterAction process, led by the Scottish Human Rights Commission and the Centre of Excellence for Looked After Children in Scotland, which would include a new support fund for survivors of abuse while in care. Reflecting a cross-portfolio approach, the Minister for Children and Young People, the Minister for Community Safety and Legal Affairs and the Minister for Public Health had also attended the event.

8. Mr Russell had also announced that he was considering establishing an independent inquiry on the historic abuse of children in care. Such an inquiry must be designed to provide tangible outcomes for survivors, and it should also help society gain a better understanding of the issues, allow the various institutions concerned to give an account of their actions in public, and place the facts formally on the record (both for the benefit of survivors and in the wider public interest). To this end, he intended to bring detailed options for an inquiry to the following meeting of the Cabinet, with a view to announcing proposals as part of his planned statement to the Parliament on 11 November on the Scottish Government's strategic approach to child protection.

9. There had been significant pressure from individual survivors and groups of victims for some form of inquiry of record, both to raise the public profile of child sexual abuse and to provide an appropriate degree of accountability among the different agencies concerned. It seemed appropriate to respond positively (and in early course) to such calls, particularly in light of the ongoing inquiry in England and Wales which had been set up to consider whether institutions had taken seriously their duty of care to protect children from sexual abuse.

10. In discussion the following points were made:

(a) In view of the number of portfolio interests concerned and the complexity of the legal and societal issues associated with historic child abuse, it would be vital to take a coherent strategic approach across the Scottish Government and the wider public sector;

(b) In considering options for an inquiry, useful pointers might be gained from an examination of the experience of other countries, such as Australia and Northern Ireland;

(c) The approach taken by the UK Government in its current inquiry covering England and Wales was unlikely to provide a particularly helpful model, in view of the lack of public consensus on the approach adopted and the manner in which it had been established;

OFFICIAL-SENSITIVE

(d) It would be necessary to take all possible steps to avoid a conflict between an inquiry and ongoing or planned criminal prosecutions or civil cases. The inquiry remit would need to be tightly drawn, and its planned working procedures carefully considered, so as to mitigate the risk of prejudice to any cases that might be brought by the Crown. To this end, the Law Officers should be consulted as appropriate in the design of any inquiry process;

(e) Careful consideration should be given to the sequencing of any review processes in relation to ongoing or planned prosecutions, and appropriate priority should be given to police work, whenever a particular case demanded it. In this context, it would be helpful for Cabinet to receive further information on the proposed operation of the National Child Abuse Investigation Unit which was currently being established by Police Scotland to deliver an enhanced, specialist response to allegations of abuse;

(f) The criminal justice system remained an essential element of society's response to child abuse. In addition to the imperative to bring perpetrators to justice, however, a wider response was also necessary, allowing survivors and their families (as well as wider society) to achieve some form of communal resolution and, if possible, individual closure;

(g) In deciding the appropriate legal status and organisational structure for an inquiry, various considerations would need to be taken into account, including the requirement for openness and transparency. Appropriate cost and time constraints would also need to be applied, while acknowledging the overriding need for a thorough, 'once-and-for-all' inquiry which should be designed to provide a lasting and authoritative set of findings;

(h) While all survivors would wish for timely answers to the questions they still faced, this needed to be balanced by the need for thoroughness. It would moreover not be possible to meet the expectations of all those with an interest in the outcomes of an inquiry, since individual needs would vary, so careful and sensitive chairing would be vital;

(i) Although some types of public inquiry were judge-led, a number of other choices would be possible in line with the applicable inquiry rules (and depending on the status of the inquiry). The choice of chair, and wider inquiry team, should recognise the fact that such reviews tended to be inquisitorial rather than adversarial. Whatever form or status an inquiry might eventually take, naming the right team to lead the process would be of fundamental importance, both in terms of their expertise and in recognition of the need to achieve acceptance among all the parties involved. Recent experience in England and Wales provided a good illustration of the difficulties that could be encountered in such a contentious and sensitive area;

(j) In choosing an approach, it would be necessary to seek and take account of the views of survivors and survivor groups, while recognising that complete consensus would be unlikely to be achievable;

OFFICIAL-SENSITIVE

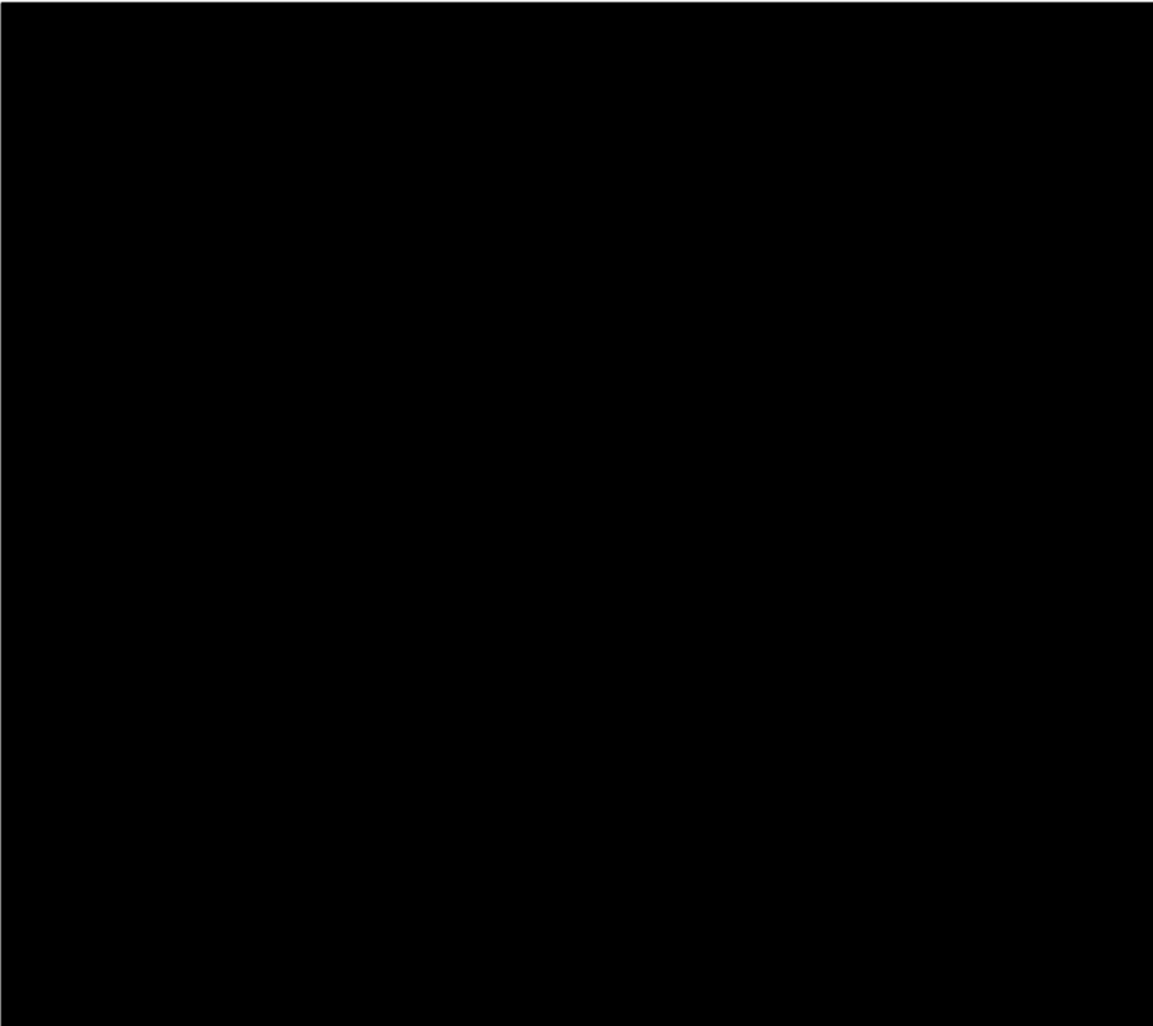
(k) It would also be important to ensure appropriate interaction with other processes such as the National Confidential Forum and existing projects to support survivors funded by the Scottish Government and others.

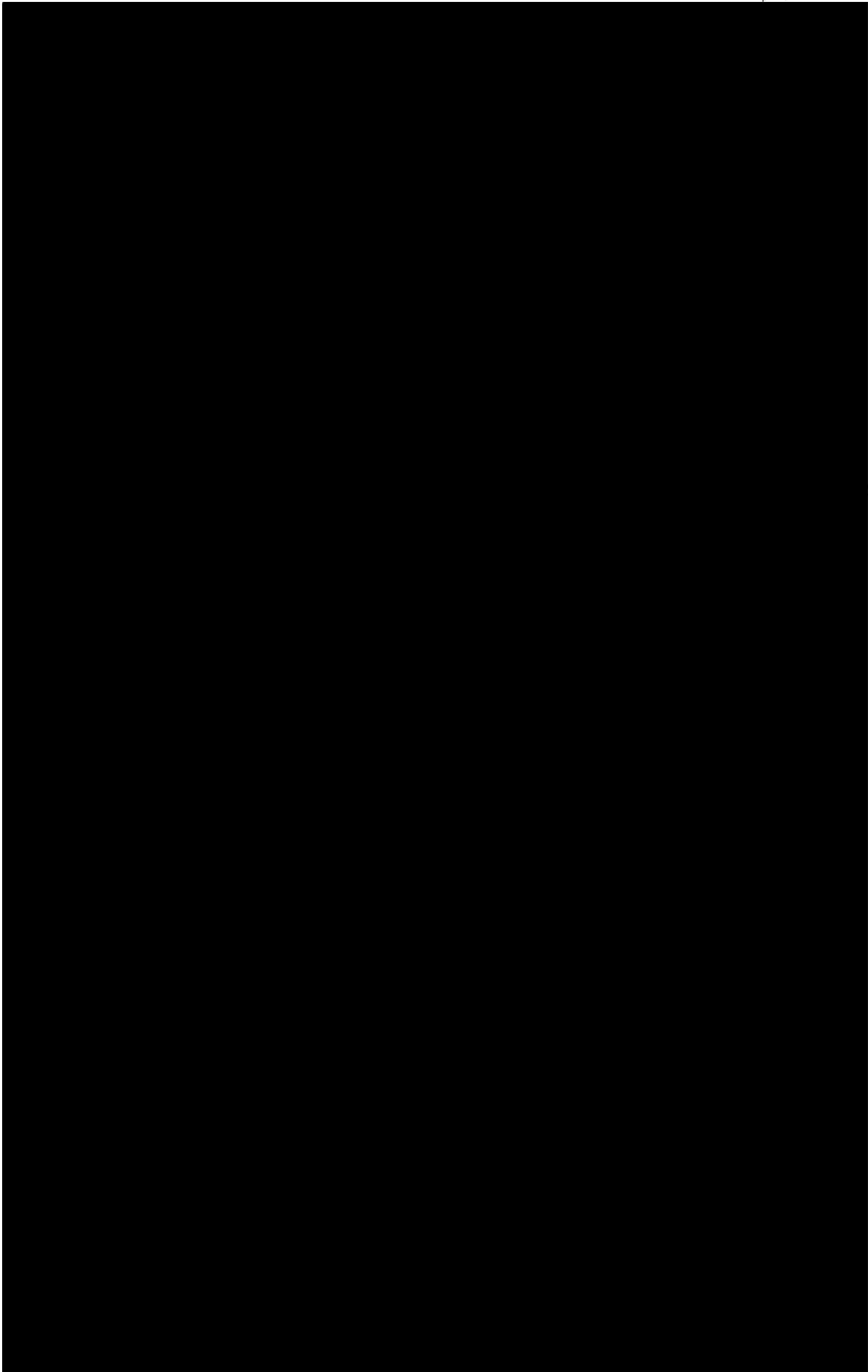
11. **Cabinet agreed that:**

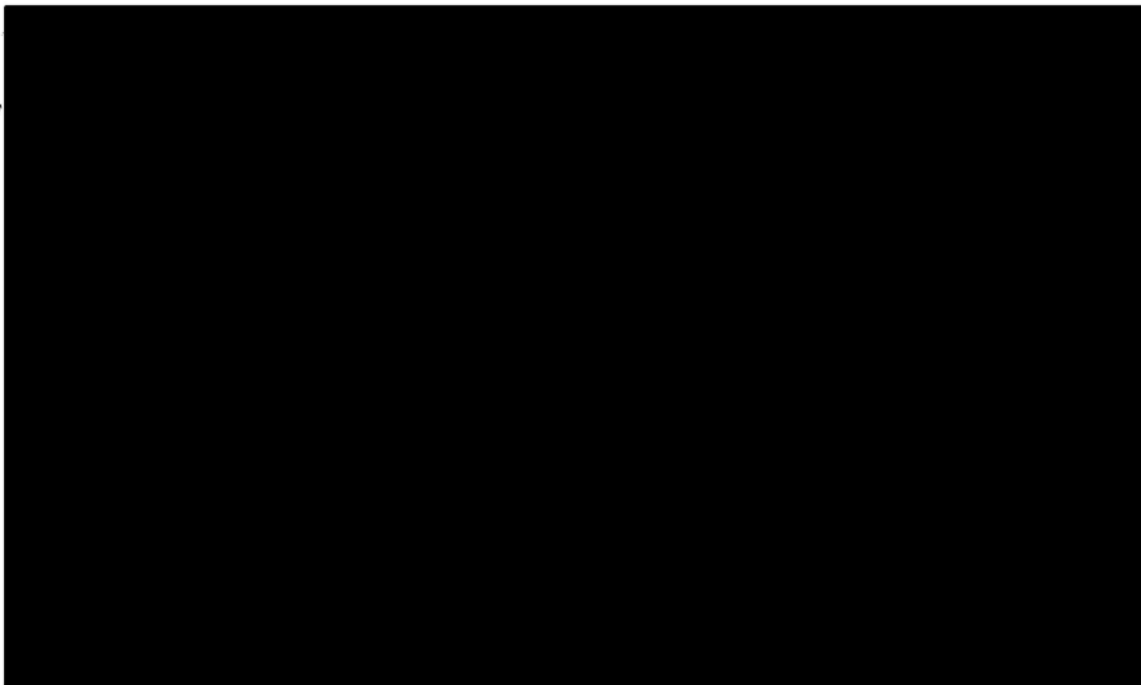
(a) Mr Russell should develop a full set of proposals, on a cross-portfolio basis, for consideration at the meeting of the Cabinet planned for the following week, informed by specialist legal and procedural advice from the Lord Advocate and others, as required; and

(b) Proposals should address the nature, scope and legal basis of an inquiry, including how it would interact with current investigatory processes and current, planned or potential prosecutions, as well as the wider set of initiatives to support survivors, such as the National Confidential Forum, and the work undertaken by Police Scotland to co-ordinate investigations of alleged child abuse.

**(Action: Cabinet Secretary for Education and Lifelong Learning;
Children and Families Directorate)**







Cabinet Secretariat
November 2014

SC(14)31st Conclusions

7
OFFICIAL-SENSITIVE