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In 2014 Scotland Welcomes the World



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Dear Professor Miller

SCOTTISH HUMAN RIGHTS INTERACTION – SCOTTISH GOVERNMENT RESPONSE TO THE ACTION PLAN

Introduction

In November 2011 Scottish Ministers agreed to actively participate in the Scottish Human Rights Commission InterAction Process. In 2012 the Commission appointed the Centre for Excellence for Looked After Children in Scotland (CELCIS) to manage the InterAction process and the first event was held on 28 February 2013. We have shown our commitment to the InterAction through the attendance of Michael Matheson MSP, Minister for Public Health at that event and through the ongoing engagement of Scottish Government officials throughout the process. We welcome the opportunity to attend the InterAction Recall Day to hear views on how we can move forward together.

We would like to thank the Scottish Human Rights Commission, CELCIS and all the organisations who participated in the InterAction. We would particularly like to thank all the survivors who engaged in the InterAction.

The Action Plan includes two outcomes: acknowledgement of historic abuse of children in care and effective apologies are achieved; and accountability for historic abuse of children in care will be upheld, including access to justice, effective remedies and reparation. It also includes a number of commitments for the Scottish Government and others. In responding to this, we have considered in detail each of these commitments and how these can be or are being addressed.

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Exploration of options for developing a national survivor support fund

Reparation: Options for the development of a national survivor support fund should be explored with all of those affected, including victims/survivors, public, private, voluntary and religious bodies, local authorities and others affected.

The Scottish Government agrees to develop a survivor support fund. We will consider a number of existing models, including the Caranua model which some survivors recently told us they were interested in and will work with survivors and organisations to consider how a model like this could enhance and work in partnership with support services already available in Scotland.

Consideration will be given to appropriate forms of commemoration, guided by the views of victims/survivors.

The Scottish Government agrees to fund an appropriate commemoration. We will actively engage with survivors and relevant organisations on the format that this should take.

Support for survivors to understand and access measures in the Action Plan

Empowerment: Survivors should be supported to understand and access the range of measures of in this Action Plan.

The Scottish Government will engage with survivors to support them to understand measures in the Action Plan through the development of the proposed survivor support fund, a review of the SurvivorScotland Strategy and the implementation of the National Confidential Forum, which has a statutory duty to signpost participants to support services.

Effective apologies and Apology Law

Barriers to effective apologies from those with historic responsibility for child care in Scotland are increasingly removed, including through a full consideration of the merits of an Apology Law.

The Scottish Government will give full consideration to the merits of an Apology Law. We will continue to work constructively with Margaret Mitchell MSP as her detailed proposals for an Apologies Bill are developed.

The civil justice system should be increasingly accessible, adapted and appropriate for survivors of historic abuse of children in care, including through the review of the way in which "time bar" operates.

Survivors have expressed the view that the key barriers to raising a civil action are difficulties in obtaining legal aid and that judicial discretion to waive the time-bar is rarely used in these sorts of cases. We recognise the importance of survivors being able to seek appropriate redress through the civil courts and would like to work with survivors and key stakeholders across the legal sector to investigate these particular issues further. We would also like to explore, how through the work described in our response to the options for developing a national survivor support fund, specialist support can be provided to those survivors who choose to raise a civil action.

There should be a nationally consistent and appropriate approach to the investigation and prosecution of offences relating to historic abuse of children in care.

We will work with the Crown and Office of the Procurator Fiscal Service on engagement with survivors, awareness and confidence in knowing when and how to access back-up support such as advocacy and counselling.

In terms of the investigation of cases relating to historic child abuse, the creation of Police Scotland, by the Scottish Government, in itself helps to address this recommendation as we are now seeing a more consistent approach to tackling and investigating a range of crime types, including child abuse as one of the aims of reform was to create more equitable access to specialist capabilities across Scotland. In many cases Police Scotland now have dedicated national units in place to assist in this and have specialist liaison officers to interact with victims of for example sexual crimes.

The recent announcement that Police Scotland are developing a National Child Abuse Investigation Unit will look to build on the existing national capability to further enhance the investigation of and combatting of abuse. We will work with Police Scotland to ensure that the Unit is aware of and responsive to the particular needs of victims of historic abuse.

Review of lessons learnt from previous inquiries.

There should be a review of the lessons learned from previous inquiries and related processes such as the Historical Abuse Systemic Review. The review should consider what added value a National Inquiry on Historic Abuse would have, and should scope the potential costs.

Scottish Ministers take their responsibility towards survivors of childhood abuse extremely seriously and they will never allow the past abuse of children in care to be forgotten. Neither will they ever stop leading the way in exploring improvements in the system of child protection in Scotland in order to reduce the risk to our children of harm, abuse and exploitation and to ensure we have one of the best child protection systems in the world.

In 2007 the Shaw Review looked into and made sweeping recommendations about the modern care system and these led to major changes across the care system, aimed at improving the care and protection of children and young people in care. Whilst working hard to implement these recommendations the Scottish Government has also taken on board the recommendations from other inquiries and the landscape for looked after children is a very different place than it was even ten years ago.

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No system of care can guarantee complete safety but it is important to highlight the scale of reform to the system in recent decades and that the purpose of many changes has been to reduce the risk of harm to children and improve their life chances. Alongside this response the Scottish Government is publishing a summary of changes in the looked after children system which is part of the on-going debate about how to further safeguard children in care (and protect children more generally from harm). At the same time it will highlight any areas where there may be room for improvement.

Scottish Ministers are firmly committed to ensuring that everything possible is done both to support survivors of abuse and to ensure that our current child protection system is as robust as possible. To this end, Ministers will be ensuring that there is both a Cabinet and senior official lead to make sure that policies across the board are designed in a way which protects our children and young people. This will include learning the lessons from previous, recent and current inquiries, including the Jay report on child sexual exploitation in Rotherham; and the Woolf enquiry at UK level

Improving the care system for looked after children and young people now and in the future is one way the Scottish Government ensures it addresses the concerns of survivors who rightly demand that vulnerable children never face the kinds of abuse they did but providing assistance and support for survivors themselves is also vital. Through the SurvivorScotland Strategy Ministers have ensured that there are services available to assist survivors with counselling, advocacy and accessing records. It also promotes awareness raising and training so that this abuse is never forgotten.

The Scottish Government believes that the significant reforms of recent years and those being newly implemented as part of recent legislation need to be given time to operate. Ministers will continue to be open to the possibility of a review in relation to any specific concerns which would benefit from such an approach.

National Confidential Forum as part of a national record.

In establishing the National Confidential Forum, every effort will be made to consider how this might contribute to establishing a national record.

The Scottish Government will work with the National Confidential Forum and National Records Scotland to ensure that people who speak about their experiences in institutional care as children will have this recounted through the Forum's published reports. This will help to enhance public knowledge and understanding of an important part of Scotland's history.

Records: the outcomes of the ongoing review of record keeping and access to historic records should be considered in the implementation and review of this Action Plan.

We will work with National Records Scotland to ensure that work is undertaken with awareness and sensitivity of the particular needs of survivors of historic abuse. In addition, there has been a cataloguing of files relating to the management of care units which can be accessed by any member of the public on request to the Scottish Government. Legislation (Public Records (Scotland) Act 2011) was also introduced to ensure all relevant bodies properly manage (and retain) files of those who had been in residential care.

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