

# Scottish Child Abuse Inquiry

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## **Factsheet – for people who tell us they were abused, or a member of their family<sup>1</sup> was abused**

### **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.

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<sup>1</sup> “family member” includes any person who an applicant or a person now deceased regarded as a member of their family.

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 want to tell the Inquiry you were abused in care, when you were under the age of 18. “In care” means any residential care including being in foster care or at a boarding school. You can give evidence whether or not you have claimed compensation for that abuse, whether or not you were involved in a police investigation, and whether or not you have been involved in any court case.

Your evidence may also help the Inquiry even if you were not a child in care. You may, for instance, have witnessed the experiences of children in care although you were not in care yourself. Or you may want to offer evidence about a family member who you believe was abused when in care. Please contact us and a member of the Inquiry will advise whether the evidence you have to offer would be of help.

**Timing of abuse** – The Inquiry wants to hear about abuse of children in care at any time from within living memory up to 17 December 2014. It doesn't matter if the person you name as your abuser has died.

### **Talk to us**

You can tell the Inquiry about your experiences of abuse. 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 person you name as your abuser has died or whether or not you reported the abuse in the past.

We understand that it may be very difficult and upsetting for you to tell us about your experiences. The Inquiry's witness support team is here to explain the ways in which you can talk to us and to help and support you through the process. You will not be forced to give evidence in public at Inquiry hearings but if you are invited and wish to do so, the witness support team will support you throughout. The Inquiry may not be able to invite everyone who has given a statement to give evidence in public.

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 24202, Edinburgh, EH3 1JN

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 within the Inquiry's Terms of Reference.

If the Inquiry cannot look into your experiences we will contact you to explain as soon as possible.

If the Inquiry can look into 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.

### Private sessions and witness statements

You can tell the Inquiry about your experiences at what the Inquiry calls a "private session". A witness statement will then be prepared.

It may take us time to arrange a private session near you. This does not mean that your experiences are not important to us.

Generally, three members of the Inquiry team will meet you at the private session. They will help you to talk about your experiences and memories. You can go at your own pace and have breaks whenever you want. A private session usually takes a few hours. You can bring someone to support you at the session.

Before the session 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, whether you reported the abuse you tell us about and your life after care. It is up to you how much you want to say about these things.

A member of our witness support team will be available throughout your private session. We will also give you a follow up phone call.

We record private sessions 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 your ability to read 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 happened to you. 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.

### Publishing witness statements

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 and allegations

If you tell us that you were abused, we may have to disclose your name and allegations to the organisation responsible for your care at the time and anyone you named as an abuser. 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 and allegations to people or organisations who hold information that we need. Again, we do this on a confidential basis.

If you report your abuse to the police and your abuser is prosecuted, and/or if you make a claim for financial compensation, the Inquiry may be obliged to pass a copy of your statement to your abuser's lawyer or to the prosecutor, if a court order is granted which requires us to do so. That process would be conducted formally, under the control of the court.

If you have given a statement to us about a family member who you believe was abused, we may have to disclose their name and the allegations in the same way and on a confidential basis.

### Can disclosure or publication be prevented?

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

### Names of convicted abusers

We can – and usually will – disclose and publish the identity of anyone who has been convicted of charges involving the abuse of children in the care settings we are investigating.

### 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 a private session.

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.

Lawyers are not permitted to attend sessions with the Inquiry for any purpose other than to support you when meeting with and/or giving your evidence to the Inquiry. They are not, for example, allowed to attend because they are your representative in a court case or to assist you in relation to a court case.

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

- by phone on: 0800 0929 300
- write to: SCAI, PO Box 24202, Edinburgh, EH3 1JN
- 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 our approach to collecting and handling 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 nature and extent of abuse of children whilst in care in Scotland. We publish various documents relating to our investigations and findings, and sometimes this may include some personal data. 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 your personal data for a number of reasons, all of which help us to fulfil our Terms of Reference.

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

When a person 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 we know what information appears to be of most interest. 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 any personal data you provide to us in doing so, 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 and to help us decide which institutions or organisations need to be investigated.

We may approach you to ask you to give evidence to the Inquiry, in which case we will retain any additional personal data you provide to us and we may use it to contact you about the work of the Inquiry.

If you provide us with evidence, whether by giving a statement, or in response to a statutory notice under section 21 of the Inquiries Act 2005 requiring you to submit written evidence, or by attending the Inquiry to give evidence in person, or in any other way, we will retain any personal data you provide in doing so. Also we will retain any personal data which you provide in any communications we have with you in relation to your evidence. We will use any such personal data to help us with our investigations and/or otherwise fulfil our Terms of Reference.

We also recover records from a range of sources, including providers of residential care for children, local authorities, Police Scotland, the Crown and Procurator Fiscal Service, and the Scottish Government.

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

We collect data about children in care, data about the abuse of children in care and data about the impact of such abuse. We collect and retain contact details, data known as special category data and information about criminal convictions.

The records we recover might include personal data including sensitive personal data such as data relating to a person's criminal convictions, offences, private 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 individuals working for or on behalf of the Inquiry. 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 strictly confidential basis, to organisations which provide(d) or arranged residential care for children, to people who are alleged to have abused children in care, to organisations which hold records which could assist the Inquiry with its investigations, to experts or to the police.

In some cases, we may publicise your data to allow us to fulfil our Terms of Reference. However, we are extremely careful about what data is made public and only publish it where we are satisfied, having had regard to data protection and inquiries legislation and any restriction orders issued by the Chair, that it is appropriate to do so.

Some people are entitled to be anonymous and, unless they have expressly waived their anonymity, their identities will be protected by appropriate redaction before publication. Details of those who are entitled to anonymity are 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, you can ask our witness support team about whether you are entitled to anonymity.

## **Data controller**

The Chief Executive of the Inquiry is our "data controller". As data controller, she is obliged by law to determine the purposes for and means by which we process all and any data including how it is held, how it is used, and when and/or how it is destroyed.

Each year the Inquiry registers with the Information Commissioner – who supervises compliance with Data Protection legislation 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, or if we contact you, we will retain any personal data which, in doing so, you provide to us. We will do so solely to enable us to carry out our work. We will generally retain the data for the duration of the Inquiry.

Under our Terms of Reference we are required to create a national public record, and the Inquiries Act 2005 and the Inquiries (Scotland) Rules 2007 require the Chair to keep a comprehensive record of the Inquiry. That means we must, at the end of the Inquiry, transmit certain records we hold, including personal and sensitive personal data, to the Keeper of the Records of Scotland.

## **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 the need to comply with a legal obligation; the obligation relied on will usually be that we are carrying out a task we require, in the public interest, to perform and/or that we are 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 the law that applies to us. In our case our legal obligations as a public inquiry are set out in the Inquiries Act 2005 and the Inquiries (Scotland) Rules 2007. The Inquiries Act empowers a government minister to set up a public inquiry; it sets out what we, as a public inquiry, must do and what we have the power to do. The Inquiries Rules set out certain procedures we must follow.

Under data protection laws, the processing we carry out must be necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Chair of the Inquiry. In our case, all we do is for the benefit of the public, the Inquiry having been established because the Scottish Ministers were satisfied it was appropriate to do so, given the extent to which there was public concern about the abuse of children in care dating back over many years, the need to understand what happened in the past and the need to seek recommendations for the protection of children in care in the future.

We also use personal data in pursuit of our legitimate interests, meaning that we carry out necessary processing for the purpose of our interests in fully carrying out our investigations, in creating a clear public record of the nature and extent of abuse of children in care, in making findings, in issuing reports and in deciding on and drafting appropriate recommendations.

We rely on these bases for processing only when we believe our interests are 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 is appropriate to provide information in response to any request you make to assert your rights under the GDPR. Sometimes we will do so even if there is an exemption that we can rely upon. Sometimes we will conclude that it is not appropriate for us to provide you with the information you have requested - this will, for example, be the case if complying with your request would make it more difficult for us to fulfil our Terms of Reference or if it 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, if we consider that your information falls within one of the exemptions set down in the Data Protection Act 2018 and that agreeing to your request could hinder our ability to fulfil our Terms of Reference, we may have to decline your request.

### **Contact and complaints**

If you wish to contact us about the terms of this privacy notice, please write to [SCAIdataprotection@childabuseinquiry.scot](mailto:SCAIdataprotection@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: [Your personal information concerns | ICO](#), by calling their helpline on 0303 123 1113 or by writing to them:

UK Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire