



SCOTTISH EXECUTIVE

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Thank you for your letter of 19 May regarding petition PE535 from Mr Christopher Daly. I apologise for what has clearly been an unacceptable delay in providing a substantive reply to your original request for information. I know you will appreciate this is a difficult and complex subject and we have been examining the way ahead very carefully. I hope this letter addresses all of your concerns. Please do not hesitate to contact me again if you wish further information

Recent criminal convictions show that abuse took place in residential establishments in Scotland. Any case of child abuse is unacceptable. Abuse of vulnerable children in institutions which should provide them with safety is particularly deplorable.

In deciding whether to hold an Inquiry into allegations of historic abuse in residential children's homes, we first considered what we were already doing to:

- Minimise the risks to children currently living in these homes
- Provide high quality support to adult survivors of past abuse
- Ensure survivors have full access to their legal rights and remedies

We then considered whether an Inquiry would prevent future abuse, help meet the needs of survivors, or be in the wider public interest. On balance, after very careful consideration, we decided that it would not. Our reasoning is as follows:

Minimising the risk of abuse to children and young people currently in residential establishments in Scotland. Following inquiries and reports into residential establishments, we have taken steps to improve the protection afforded to these vulnerable children. Since 1995, HM Inspectorate of Education has carried out regular inspections of boarding schools and hostels. From April 2002 the Scottish Commission for the Regulation of Care has regulated and inspected care homes for children. The Protection of Children (Scotland) Act 2003 is being implemented to provide a list of persons unsuitable to work with children in either paid or unpaid employment. We are undertaking an extensive Child Protection Reform Programme, following the publication of *It's*



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everyone's job to make sure I'm alright in November 2002. That programme will provide extensive advice and guidance, staff development and a rigorous inspection regime. Most recently, in March 2004, we issued *Protecting Children and Young People - The Charter* and a Framework for Standards to help translate the Charter into practice. These set out what children, their parents and members of communities can expect from agencies tasked with the protection of children. Taken together, these measures will provide much greater protection for all children, including those living in residential care homes.

Providing high quality support for survivors of past abuse. Ministers are anxious to do the right thing by the survivors of past abuse. A short life working group to consider the detail of what is needed was established by Malcolm Chisholm to look at services for adult survivors of childhood sex abuse. It hopes to report to Ministers early in the autumn. On receipt of that report, Ministers will consider the detailed actions that will be required by them, and by local statutory and voluntary agencies, to meet the needs of survivors.

The remit of the working group is broad, and goes beyond those who were abused in the setting of a residential institution. It is considering the best ways for designing and delivering services for survivors. There is broad consensus among the Group that there are key areas for improvement in both statutory and voluntary sectors to enhance services for survivors. These include a general awareness campaign, improving training and education for professionals and key workers, and the need to build capacity within the voluntary sector agencies working with survivors which are bearing the brunt of referrals. The Group recognise that these and other issues require a coherent commitment to improve understanding of survivors' needs. While focused on survivors of sexual abuse, it is acknowledged that more can be done to improve the links with child protection, domestic abuse, and victims' strategies. We will also consider the application of recommendations for survivors of other forms of abuse.

Ensuring that individuals who have suffered abuse have access to legal rights and remedies. There are already a large number of civil claims currently before the courts, and the Executive has been asked to provide access to papers relevant to these cases. We want to be helpful and open to those who are pursuing their claims in this way, while taking careful account of due judicial process and making sure we do not inadvertently harm the interests of others.

We plan to make public the information held by the Executive on List D schools and other residential establishments. It is clear that these papers can be of help in these cases or that access to them can help survivors understand the background to the schools and their management. The Executive also wants to be completely open about the information we hold in relation to these cases to demonstrate we are not withholding evidence of abuse in these establishments or Government knowledge of such abuse.

However, the files contain personal details about pupils and teachers. We have a duty to protect the personal privacy of these individuals and we could not open the files for public inspection in their current form. Last year we closed some files that had been open to the public when it was discovered they contained such information. We are now in the process of 'redacting' relevant files. (Redacting is the process of blocking out names and other sensitive information so that files can be made public without damaging individuals' legitimate interests). This is a time consuming and complex process, but will allow us to make the information we hold publicly available.

We are also aware, having consulted organisations that have extensive experience of this type of work, that it can be very traumatic for individuals to read files and papers relating to their experiences, whether or not they are named or suffered abuse. We are therefore planning support to be available to individuals who come forward seeking access to files. We will make files available



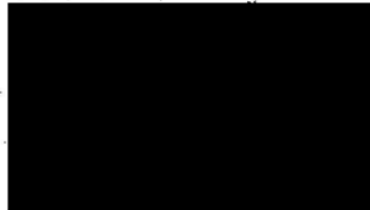
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as soon as possible, but not before the files have been redacted, and suitable arrangements are in place to support the individuals concerned. We hope to be in a position to make these files available by the end of this calendar year at the latest.

Whether an Inquiry would prevent future abuse, help to meet the needs of survivors, or be in the public interest. We have given very careful consideration to this. We have concluded that, on balance, an inquiry would not achieve these purposes.

- We have taken a range of steps to improve the protection of children in residential establishments, based on the best evidence of what works, and do not believe that an inquiry into historical events would lead to further changes in current practice.
- We recognise that some survivors might welcome an inquiry, but also that others might prefer the issue was not raised in public because that would reopen old wounds. We need to find a way of meeting the needs of both sets of survivors. We are already considering what steps we can take to provide maximum support for survivors, targeted on their individual needs, and are providing as much information as we can to support any legal challenges that might be raised. Individuals are already pursuing their legal rights to compensation through the civil courts and we would need to be very careful not to jeopardise that process through an inquiry.
- Finally, the public has a number of potential interests. They need to be reassured that such abuse cannot recur, that lessons have been learned, that survivors have the support they need, and that the legal process is able to take its course with full access to relevant information. We believe that the work described above would provide these reassurances. In addition, we consider that the holding of an Inquiry would have an unpredictable impact on public confidence. It might be perceived as a means of ensuring there were no residual issues, but it might be perceived, mistakenly, as an admission that there were issues still to be resolved, and lead to an unfair and damaging loss of confidence in existing provision.

I apologise again for the time to answer your initial enquiry which I have taken steps to ensure will not recur. I would be happy to answer any further questions you may have and, if you would find it helpful, my officials could provide you with more detailed briefing. If you would like to take up that offer, please contact Gerald Byrne (██████████) to make the necessary arrangements.



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