

From: G C D Byrne
 ED-YPLAC
 13 February 2003

Minister for Education and Young People

Copy to: First Minister
 Deputy First Minister
 Lord Advocate
 Minister for Finance and Public Services
 Minister for Health and Community Care
 Deputy Minister for Education and Young People
 PS/ED
 PS/JD
 Colin MacLean
 Angus Skinner, CSWSI
 Rachel Gwyon, YPLAC
 Peter Beaton, JD
 Sarah Smith, Children & Families
 Fiona Robertson, OSSE
 Stella Perrott, SWSI
 Ian Fleming, Police Division
 Bill Gilchrist, Deputy Crown Agent
 Morag McLaughlin, Crown Office
 Press Education
 Adrian Colwell
 Jeane Freeman
 Liam McArthur

PE535 – MR CHRISTOPHER DALY

Purpose and Recommendation

1. That the Minister agree to an updated draft of response to PE535 in the light of developments since the revised advice submitted in November.

Priority

2. **Immediate.** The Committee has set a new deadline of 14 February.

Background

3. My submissions of 13 and 14 November 2002 (attached for ease of reference) lay out the background to this petition which asks that the Scottish Executive to hold an inquiry into past institutional child abuse and that the Scottish Parliament makes an unreserved apology for state bodies in which abuse took place. The reply was not sent to the Committee while the way forward was considered further by Ministers. In January the Minister had a meeting with officials from the Executive and the Crown Office to discuss the issue. That meeting discussed the options and identified next steps to be taken, including considering organisations with an interest in this matter and how best to approach them. In particular we

agreed to make contact with Quarriers, who, according to media reports, had mechanisms in place to address claims of historic abuse.

4. Since that meeting there have been further media reports about Quarriers, focusing on their policy of providing information about birth families to children. The Chief Executive of Quarriers has written to the Minister, in confidence, explaining some of the steps the organisation has taken to address these and wider concerns, including:

- indicating publicly that abuse did occur at Quarriers in the past and that they are ready to discuss these issues sensitively with anyone affected (including referring matters to the police should the person agree);
- appointing a specialist social worker to deal with aftercare of allegations of abuse;
- publicising their policy of open access to records by all former residents;
- involving senior managers, including the Chief Executive, in cases, should former residents wish.

The letter indicates that the number of inquiries has been limited in number and that the specialist post has only required a part time worker. The Chief Executive says that their voluntary and statutory organisations are concerned about ever widening allegations and that it would be helpful if the Executive were to initiate and promote production of good practice guidelines to help agencies respond appropriately.

Discussion

5. At our meeting the Minister indicated she was concerned that allegations of institutional abuse in Scotland would continue to trickle out and would prefer the Executive to acknowledge the existence of the problem and take a positive role in bringing closure to those affected. The Executive would not want to affect any existing criminal or civil proceedings but encourage public discussion of the subject, perhaps with a forum for victims to recount their experiences and counselling other services for adult survivors.

6. There were a number of issues to consider, such as the relationship with the criminal and civil justice systems and the question of compensation, in particular whether the Executive was willing to or might pay compensation. It might be difficult to offer only a sympathetic forum that heard cases in private with no follow up in terms of compensation or apology. The format and cost of any body would also need further thought.

7. We concluded that it would be important to engage other organisations involved in these allegations, in particular the Churches, the voluntary sector and local authorities. The Executive might be able to exercise leadership, as Quarriers have suggested, and perhaps in create a forum which would also benefit these bodies. However, any inquiries would have to be carefully handled and timed.

8. In view of the sensitivities (and other priorities), we were not planning to take this forward more actively until after the election. At this stage we would propose that the

Minister responds positively to the letter from Quarriers, possibly asking the Chief Executive to develop his proposal further. Separate advice will be submitted on this.

Petition response

9. A draft response to the petition is attached. It recognises two main objectives for any forum: supporting victims by allowing them to tell of their abuse, and learning lessons for the future. The draft says the Executive is considering how these might best be met but does not offer the prospect of a comprehensive inquiry as requested in the petition. The draft response also mentions the need to consult others, including victims themselves. This draft does commit the Executive to taking further action, at least to consult victims, although it does not propose the form that action will eventually take. The intended message is that we are taking this issue but further thought is required on the mechanism, which reflects the position agreed at the Minister's meeting.

10. We are finalising the text on inspection and the Children's Commissioner, and this will be supplied as soon as possible.

Conclusion

11.. The Minister is invited to note the further advice above and agree on the wording of the revised memorandum attached.



Gerald Byrne
ED-YPLAC
2 B (S) VQ
Ext. [REDACTED]

13 February 2003

MEMORANDUM

Response from the Scottish Executive to the Scottish Parliament Public Petitions Committee on the petition submitted by Mr Christopher Daly.

PE535 Petition by Mr Christopher Daly calls for the Scottish Parliament to urge the Scottish Executive to commence an inquiry into past institutional child abuse. The petition makes particular reference to children who were resident in an institution in respect of which State bodies had regulatory or supervisory functions, in particular those in the care of the State under the supervision of religious orders.

The petition requests that the Scottish Parliament makes an unreserved apology for the State bodies and that the Scottish Parliament urges the religious orders to apologise unconditionally.

In particular the petition asks the Scottish Parliament and Scottish Executive:

- To afford victims of institutional child abuse in Scotland an opportunity to tell of the abuse they suffered to a sympathetic experienced forum.
- To establish a picture of causes, nature and extent of physical, sexual and emotional abuse of children in institutions from around 1940 or before until the present, including the antecedents, circumstances, factors and context of such abuse, the perspectives of the victims and motives and perspectives of the persons responsible for committing the abuse.
- To compile a report and make public, on the activities and findings of the inquiry, containing such recommendations as the inquiry considers appropriate including actions which should be taken to address the continuing effects of the abuse examined by the inquiry.
- To appoint specialist advisers [to] supply information or elucidate areas of complexity, to conduct investigations, hold hearings, both private and public and conduct or commission research for the purpose of carrying out these terms of reference.

Scottish Executive Response

1. Any case of child abuse is unacceptable. Abuse of vulnerable children in institutions which should provide them with safety is particularly deplorable.
2. The Scottish Executive recognises that there is a need to provide support to the victims of past abuse in residential establishments in Scotland, including an opportunity to relate their experiences. The Executive also recognises the need to learn any possible lessons from past abuse to reduce the risk in the future, and to allow victims to contribute to that process.
3. The Executive is considering how these needs should be addressed, and what role the Executive itself should play. The Executive is looking at the experience of institutional abuse in other countries and the way that other administrations have addressed the issue. The Executive also recognises that there is a need to consult others on any proposals, particularly representatives of victims themselves.

4. The Scottish Executive is committed to ensuring that appropriate systems are in place to protect vulnerable children from abuse. A number of steps have already been taken to learn the lessons from past abuse and child protection, including :
- The report of the inter-agency audit and review of child protection in Scotland - *It's everyone's job to make sure I'm alright* - was published in November last year.
 - [HM Inspectorate of Education and the Social Work Services Inspectorate carry out regular inspections of residential establishments to ensure the quality of care and protection. The Scottish Commission for the Regulation of Care is now also inspecting these establishments against a published set of care standards.] [**HMIE, SWSI, HD to comment**]
 - Many of the recommendations of the review of safeguards in place to protect children in residential care from abuse (published in 1998) have now been implemented.
 - Funding has been provided to groups providing advocacy services to young people in residential care so their voices are heard
 - The Protection of Children (Scotland) Bill provides for a list of persons unsuitable to work with children in either paid or unpaid employment.
 - [The Children's Commissioner] [**C&F to provide**]

Scottish Executive Education Department
February 2003

*from your folder of G-dime docs
(due dated 17/2/03)*

McKay P (Paul)

From: Byrne G (Gerald)
Sent: 13 February 2003 11:26
To: Minister for Education and Young People
Cc: First Minister; Deputy First Minister (Minister for Justice); Lord Advocate; Minister for Finance and Public Services; Minister for Health and Community Care; Deputy Minister for Education and Young People; PS/ED; PS/JD; MacLean CR (Colin); Skinner AMC (Angus); Gwyon R (Rachel); Beaton P (Peter); Smith S (Sarah); Robertson FJ (Fiona) (OAG); Perrott S (Stella); Fleming I (Ian); Gilchrist B (Bill) (COPFS); McLaughlin M (Morag); Communications DFM & Education; Colwell A (Adrian); Freeman J (Jeane); McArthur L (Liam); Neilands S (Susan)
Subject: PE535 - allegations of abuse at institutions

Further to my last e-mail, I attach the two previous submissions.



submission
PE535.doc



submission PE535
II.doc

Rigby B (Brian)

A 20728721

From: Byrne G (Gerald)
Sent: 13 February 2003 15:26
To: Minister for Education and Young People
Cc: PS/ED; MacLean CR (Colin); Gwyon R (Rachel); Perrott S (Stella); Robinson GN (Gill); Gregson L (Linda); Sunderland RE (Rachel); Neilands S (Susan)
Subject: PE535

Penny

As promised in my submission I attach an update of the draft response incorporating comments from C&F, SWSI, HD and HMIE.

Will the Minister clear this today, do you think?

Gerald



PE535 - revise.doc

MEMORANDUM

Response from the Scottish Executive to the Scottish Parliament Public Petitions Committee on the petition submitted by Mr Christopher Daly.

PE535 Petition by Mr Christopher Daly calls for the Scottish Parliament to urge the Scottish Executive to commence an inquiry into past institutional child abuse. The petition makes particular reference to children who were resident in an institution in respect of which State bodies had regulatory or supervisory functions, in particular those in the care of the State under the supervision of religious orders.

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- To appoint specialist advisers [to] supply information or elucidate areas of complexity, to conduct investigations, hold hearings, both private and public and conduct or commission research for the purpose of carrying out these terms of reference.

Scottish Executive Response

1. Any case of child abuse is unacceptable. Abuse of vulnerable children in institutions which should provide them with safety is particularly deplorable.
2. The Scottish Executive is considering whether an inquiry of the sort requested, or some other forum, should be established to look into cases of abuse in institutions in Scotland, having regard to cases that have come to light in recent years, and what other role the Executive might take in addressing these cases. The Scottish Executive will also consider the experiences of institutional child abuse in other countries.
3. The Scottish Executive is committed to ensuring that appropriate systems are in place to protect vulnerable children from abuse. Much has been done to improve child protection in recent years and further measures are planned including:

- The report of the inter-agency audit and review of child protection in Scotland - *It's everyone's job to make sure I'm alright* - was published in November last year.
- From April 2002, the Scottish Commission for the Regulation of Care has regulated and inspected care homes for children and is working collaboratively with HM Inspectorate of Education to regulate and inspect school care accommodation services. These inspections of care homes and residential schools are carried out against published national care standards.
- Since 1995, HM Inspectorate of Education has carried out inspections of boarding schools and hostels to evaluate and report on the quality of care and welfare for children. The Social Work Services Inspectorate with HM Inspectorate of Education inspect secure care establishments.
- Many of the recommendations of the review of safeguards in place to protect children in residential care from abuse (published in 1998) have now been implemented.
- Funding has been provided to groups providing advocacy services to young people in residential care so their voices are heard
- The Protection of Children (Scotland) Bill provides for a list of persons unsuitable to work with children in either paid or unpaid employment.
- The Executive has welcomed the proposed establishment of a Commissioner for Children and Young People who could promote and safeguard the rights of children and young people.

Scottish Executive Education Department
February 2002

9-Drive 120728817

MacDonald F (Fiona) (DLSSSG)

From: Minister for Education and Young People
Sent: 13 February 2003 16:13
To: Byrne G (Gerald)
Cc: First Minister; Deputy First Minister (Minister for Justice); Lord Advocate; Minister for Finance and Public Services; Minister for Health and Community Care; Deputy Minister for Education and Young People; PS/ED; PS/JD; MacLean CR (Colin); Skinner AMC (Angus); Gwyon R (Rachel); Beaton P (Peter); Smith S (Sarah); Robertson FJ (Fiona)(Sols); Perrott S (Stella); Fleming I (Ian); Gilchrist B (Bill) (COPFS); McLaughlin M (Morag); Press Education; Colwell A (Adrian); Freeman J (Jeane); McArthur L (Liam); Neilands S (Susan)
Subject: RE: PE535 - allegations of abuse at institutions

Gerald

Copy as above

PE535 - MR CHRISTOPHER DALY

Ms Jamieson has seen your minute of today on the above. She is content with the memorandum (I have attached the revised version you sent up for copy recipients) which she feels reflects the discussion she had with Jeane. Grateful if Jeane could indicate whether she is content and that the response covers the First Minister's views - to allow us to meet the Committee's deadline for a response by tomorrow.



PE535 - revise.doc

Penny

PENNY CURTIS

PS/Minister for Education and Young People
13 February 2003