

Statement of
DEPUTY FIRST MINISTER, JOHN SWINNEY

Background

1. My name is John Ramsay Swinney. My date of birth is [REDACTED] 1964.
2. I am the Member of the Scottish Parliament for Perthshire North and within the Scottish Government I am currently the Deputy First Minister and the Cabinet Secretary for Education and Skills.
3. I was educated at Forrester High School, Edinburgh and gained an MA (Hons) from the University of Edinburgh. Prior to my election to the House of Commons, I was employed in Business and Economic Development roles with a consultancy company Development Options and a life assurance company, Scottish Amicable.
4. I was elected as a member of the House of Commons in 1997 and served one term as a Member of Parliament between 1997 and 2001. I was first elected to the Scottish Parliament in 1999 and thereafter I have continuously served in the Scottish Parliament. I was the Leader of the Scottish National Party ('SNP') from September 2000 to September 2004. I was appointed as Cabinet Secretary for Finance, Employment and Sustainable Growth when the SNP came to office in May 2007 and served in that role until November 2014. I was appointed by the current First Minister, Nicola Sturgeon, as Deputy First Minister in November 2014 and have since then also served as Cabinet Secretary for Finance, Constitution and the Economy (November 2014 to May 2016) and Cabinet Secretary for Education and Skills (May 2016 to date).
5. When I became Cabinet Secretary for Education and Skills in May 2016 I took on specific responsibility for issues related to the Scottish Child Abuse Inquiry ('SCAI') that fall within the remit of the Scottish Government. This has included considering questions about the Inquiry's terms of reference. I would therefore describe myself as the 'sponsor' of the SCAI at Scottish Cabinet level.

Awareness of child abuse as a matter of concern to Scottish Parliament and Government

Pre-2007

6. I first remember having an awareness of child abuse as an issue in the very early days of the Scottish Parliament. The Scottish Parliament created a platform for debate about issues of significance and seriousness which had struggled for attention in a political context prior to establishment of the Scottish Parliament. The Scottish Parliament's Public Petitions process created an opportunity for members of the public to air matters of particular significance to them, and through that process issues relating to historical child abuse were raised.
7. I cannot recall any of my constituents coming to speak to me about the issue in those early days. My awareness came not from my constituency caseload, but because I was leader of the SNP and in that capacity had been aware of a very wide range of issues that were active in the political sphere at the time. So I was certainly aware of the emerging sense within the Scottish Parliament that this was an issue which was being explored, which was attracting prominence and scrutiny.
8. By the time of the apology given by the then First Minister, Mr (now Lord) McConnell, in the Scottish Parliament on 1 December 2004, I was no longer the leader of the SNP. The former First Minister, Mr Salmond, had been elected as leader and our current First Minister, Ms Sturgeon, was his deputy and, in practice, leader of the party at Holyrood. Accordingly, it fell to Ms Sturgeon to respond to this apology in Parliament on behalf of the SNP.
9. I thought that the apology that was given was a genuine and substantive apology. I do not think there could be any ambiguity about its authority or authenticity and I believe it was an appropriate response to the issue. However, I can understand why some people and some survivors might be critical of the apology as they might consider it to be very carefully worded. When you look into the documents behind the apology, some of which I have seen, it is clear that significant thought was

being given to questions of liability which influenced the wording of that apology. However I thought at the time that it was a pretty substantial apology.

10. I am aware that Tom Shaw was appointed to conduct an independent review in 2005 following the apology. However, it was not a subject with which I interacted in any depth. I was at that time a constituency MSP and a Committee Convenor, but I was not on the front line of political activity.

2007 and 2014

11. When the SNP came to office in 2007, and as with any change of government, there was a whole new set of government priorities. My recollection is that the issue of historical child abuse was very much at the heart of the Government's programme for action. We were focused on learning the lessons from what we had seen emerging in the preceding years. There was a clear direction of policy emerging from the previous Government which was about improving child welfare and child protection arrangements in order to ensure that children were supported in their upbringing and protected from harm. This was most effectively summed up by the 'Getting it right for every child' ('GIRFEC') policy. GIRFEC was introduced in 2006. There was a recognition that these things had not been done well in the past and that there was a need to address the failings of the state and damage that had been done as a consequence.

12. As Cabinet Secretary for Finance I did not have direct responsibility for policy issues relating to historical child abuse but I remember it as an issue that was aired at Cabinet level. Between 2007 and 2014 I was aware of a number of steps being taken by ministerial colleagues to try to practically address the experiences and concerns of survivors of historical child abuse – whether that was around the implementation of the Shaw recommendations, the Kerelaw Inquiry, or the involvement of the Scottish Human Rights Commission ('SHRC') and the InterAction Action Plan. These were all measures being taken to try to address the experiences of survivors of abuse. I should be clear that while I was aware of all of these matters I did not have any direct portfolio responsibility for these policy areas.

13. Although the 'time bar' issue was not resolved during this period, my recollection is that Cabinet was genuinely sympathetic to tackling this issue. However, discussions about this tended to be significantly influenced by those in Cabinet who were lawyers themselves or had experience of the legal system and their suggestions that we should tread with caution. That was not (as I remember it) because of financial concerns but was much more about what were seen as risks of creating a precedent and making a change to long-standing approaches to the law in this area. Although I am not a lawyer, I did have the sense that it was uncharted territory which was being contemplated and ministerial colleagues were advising caution about that.

An Inquiry

Consideration of an inquiry

14. In terms of calls for a public inquiry into historical child abuse, my recollection is that these were very intense in the run up to the apology in 2004. I have the sense that changed after the apology was given by the then First Minister and that the impetus for an inquiry diminished for a number of reasons.
15. One factor was that, while I do not think survivors in any way changed their minds about the necessity for a public inquiry, the fact an apology had been made reduced the strength of the media platform and the parliamentary platform that survivors had to secure an inquiry. There was intense pressure for an apology and then, once that was made, the media moved onto something else.
16. I think another factor was that there were a number of different approaches being taken that could be seen as involving forms of inquiry, for example, Time to be Heard and the National Confidential Forum. Although I did not have direct policy responsibility for these initiatives, I know all of the ministers who were responsible very well. They are all deeply committed and motivated individuals in all that they do. In my view, throughout that period they would have been feeling that they had an obligation to address the injustice that survivors had experienced. They were

driven by trying to get to a position that they considered would best address the experiences and concerns of survivors.

17. My recollection is that throughout the period of 2007 to 2014, the possibility of an inquiry was always there in discussions in Cabinet but there was not, until late 2014, a sharp question for Cabinet to make a decision on in terms of establishing an inquiry. The sense I got from the ministers taking the lead on issues of historical child abuse was that an inquiry was not the option which would best address the experience and concerns of survivors.

18. However, by 2013/2014, it became clear that survivors thought that these initiatives had not produced the desired outcome and so pressure for a public inquiry intensified once more.

19. I saw the period from 2007 to 2013 as a series of genuinely motivated initiatives to try to deliver a positive outcome for survivors of abuse but by 2013, it was clear that however worthy and well intentioned, they were not strong or emphatic enough to address the concerns of survivors. Going back to 1999, there was visible debate in governments of all political colours, about whether an inquiry was the best thing to address the experience of survivors. Governments wrestled with that; would an inquiry enable people to feel confident about the state addressing their unacceptable experience.

20. However, by 2014 it was evident that earlier initiatives had not been strong nor emphatic enough. The general feeling in Cabinet was that, notwithstanding those genuine initiatives, the correct course of action was now an inquiry.

21. I would identify the revelations about Fort Augustus in 2013 as being a particular turning point. Over the course of my parliamentary career, the issue of historical child abuse has gone from almost no visibility to central visibility as more information has become available. What was coming out about Fort Augustus created a wider context about the prevalence of abuse within our society and, as a consequence, it was almost inescapable that this would have to be confronted. I think that changed the balance of views in Cabinet.

22. I am aware that the potential costs of a public inquiry is a factor that is referred to in advice given to ministers and in papers put to Cabinet.
23. My own memory is that cost was not a strong element in Cabinet's decision making on this issue.
24. Of course, as the Cabinet Secretary for Finance I had a focus on money; that was my job. However, I tried to make it possible for colleagues to pursue their policy priorities by finding the money to pay for them. For example the expansion of early learning and childcare that took place after we came into government was very expensive but this was a policy priority of Fiona Hyslop – she judged these initiatives to be fundamental to increasing life chances of the children of Scotland – I made it my job to find the money available. When an inquiry was put to me in 2014, my job was to find the money for it and that is what I did.

August to December 2014

25. I remember the discussions which took place in Cabinet relating to the establishment of an inquiry during the period August 2014 to December 2014. I have also seen the papers and minutes relating to these Cabinet meetings in preparing this statement and am satisfied that these are accurate.
26. By this time, I had come to the conclusion that a number of different approaches had been taken to try to address this injustice and the demand for an inquiry had not gone away. I felt we had a duty to survivors to commission an inquiry as it was the only way we were going to get to an understanding of what had taken place in the name of the state and how it had affected survivors.
27. I became increasingly persuaded by Michael Russell's line of argument, which I understand was heavily influenced by survivors. He argued that whether an inquiry would solve everything or not we had a duty to create mechanism by which there could be an open, recorded history of the awfulness of these experiences and the country had to face up to that. I found that a compelling argument. We had to put

on the public record what had happened and that had to be formalised by a public inquiry.

28. I also came increasingly to the view that if survivors believed that only a public inquiry would satisfy their need for justice then there was a real risk that continuing to refuse an inquiry was simply disempowering those survivors. They would know better than me, or government more generally, what was going to meet their needs.

Establishing the Scottish Child Abuse Inquiry

29. I have seen the written statement provided by Michael Russell to the Inquiry. Mr Russell refers to discussions with me and with Angela Constance about aspects of the establishment of an inquiry. I remember this conversation what I would describe as a 'handover' conversation shortly after Mr Russell had left office to understand his perspective on the proposed inquiry. We wanted to know what was in his mind and to avoid undermining any dialogue that had taken place with survivors.

30. I was not involved after that in the process of setting the Inquiry's terms of reference.

The work of the Scottish Child Abuse Inquiry

31. Since the SCAI has been in operation, and in my role as Cabinet Secretary for Education, I have been following its work in a number of ways.

32. I receive regular reports from officials about the evidence given in Inquiry hearings and a representative of Scottish Government attends every hearing.

33. I have read the lengthy report prepared by Scottish Government for the Inquiry in relation to the Scottish Government's response to survivors in the period 2002-2014 and the Chair of the Inquiry has given me permission to read the documents that have been released by the Inquiry in relation to this phase of the Inquiry's work, including the statements given by other witnesses.

34. Lady Smith has sent to me a number of the reports which have already been published by the Inquiry and I have read all of them.

35. In addition, I have also discussed the substance of the Inquiry's work with certain survivors.

36. I have not attended Inquiry hearings personally to listen to the evidence of survivors. I have felt that my attendance might not be appropriate and might be regarded as a distraction.

The work of the Scottish Child Abuse Inquiry

37. Michael Russell referred in the Scottish Parliament in November 2014 to the moral imperative to protect those who are at risk of exploitation and abuse and to ensure that the individuals who are responsible for abuse face the full rigour of the law. Angela Constance, his successor, also referred to the moral imperative to face up to, and act on the reality, of historical abuse of children and the current risks of child abuse when she announced the establishment of the Scottish Child Abuse Inquiry. She referred to a vision of a Scotland that will look the truth square in the eye, one that will not be quick to judge and one that will not flinch from what is discovered.

38. The Scottish Government is clear that the Inquiry has a crucial role to play in delivering on that moral imperative. Its terms of reference are concerned with individual survivors – the impact of abuse on those survivors throughout their lives – but also with the role of the state and failures by the state to prevent that abuse, to investigate it and to hold perpetrators to account. The terms of reference are also importantly concerned with creating a national public record so that there can be no lingering doubt about the reality of the experiences of survivors.

39. The Government welcomes and takes seriously the findings already made by the Inquiry and will in due course receive the final report and recommendations of the Inquiry. The Scottish Government will consider those in due course and will act on

them. The Government is committed to learning from the failings of the past to improve legislation, policy and practice now and for future generations.

Scottish Government's current commitments to survivors

40. The work of the Scottish Government to address the needs of survivors of historical abuse continues in parallel with the Inquiry's own work.

Support for survivors of historical childhood abuse

41. The Scottish Government continues to be a member of the InterAction Review Group. There is Scottish Government representation on the Group and I have attended a number of its meetings. The Scottish Government has been working closely with the Group on financial redress, which is part of our response to the InterAction Plan that was published by the Scottish Human Rights Commission in 2014. The Group's current work plan allows for reflection and the review of each part of the InterAction Plan. The Group is made up of representatives from the Scottish Government, SHRC, CELCIS, Social Work Scotland, care providers, individual survivors and survivors who represent survivor support organisations.

Future Pathways

42. I am aware that the Inquiry has already had some evidence about the Future Pathways programme. This is an important part of reparation. We have committed £13.5 million over five years (from 2016 to 2021) to this programme. Funding has been extended for a further 2 years with an additional £9 million for the period 2021 to 2023. Future Pathways is managed by a group of organisations that make up the Future Pathways Alliance. The programme has allowed survivors of abuse in care to access a wide range of services including education and training courses, physical exercise groups, therapeutic services, access to records, driving lessons and home improvements, all in line with individuals' personal needs and wishes.

Survivors of Childhood Abuse Support Fund

43. Separately, the Survivors of Childhood Abuse Support (SOCAS) Fund was launched in April 2020, replacing the Survivor Support Innovation and Development Fund (which operated with funding of £3m between 2017 and 2020). The SOCAS Fund involves funding of £10m over the period 2020 to 2024 to be awarded to third sector and community based organisations in Scotland that run projects working with all survivors of childhood abuse, including but not limited to survivors of abuse in care. Awards have been made to 29 organisations.
44. The purpose of the SOCAS Fund is to support the recovery and resilience of all survivors of child abuse (not only survivors of abuse in care) by increasing the capacity and capability of third sector and community-based organisations in providing dedicated support. Its priorities are to reduce waiting lists for support, improve quality standards, encourage collaboration and partnership working amongst providers, and build integration with statutory services.

Financial redress

45. In November 2016, on behalf of the Scottish Government, I committed to a formal process of consultation and engagement on financial redress for survivors of abuse in care in Scotland. I announced in October 2018, following that process, that the Scottish Government had decided to establish a financial redress scheme.
46. Following that announcement Scottish Government established the Advance Payment Scheme in 2019, as an interim scheme, to make payments to survivors with a terminal illness and/or who were aged 70 or over. The age threshold was reduced to 68 on 4 December 2019. As of [29] October 2020, payments through this scheme had been made to over [500] applicants.
47. The Advance Payment Scheme will be replaced by a more comprehensive statutory financial redress scheme, should the Scottish Parliament pass the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill, which was introduced on 13 August 2020.

National Confidential Forum

48. It is intended that the National Confidential Forum will come to an end in March 2021. This is due to an increase in the provision of other forms of acknowledgement and support for survivors since the Forum was established, and a decrease in participation in the Forum by survivors. We anticipate that a new non-statutory package of acknowledgement, apology and support that is more personally tailored to individual survivors will be put in place. The new package will be considered with the InterAction Review Group.

Commemoration

49. The InterAction Plan stated that consideration should 'be given to appropriate forms of commemoration, guided by the views of victims/survivors'. This aspect of the InterAction Plan is being considered by the InterAction Review Group. The Scottish Government takes this element of the Plan very seriously and is conscious of the respectful way in which it must be realised. Should the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill be passed, then we will deliver this part of the Plan after the introduction of a full redress scheme, at a time that survivors feel is right.

Protection of children from abuse

50. In addition to work to address the needs of survivors of historical abuse, the Scottish Government and Scottish Parliament's work to ensure that effective legal and practical arrangements are in place to protect children from abuse also continues in parallel with the Inquiry's own work.

51. I am aware that it has been suggested on behalf of the Scottish Government that the Inquiry may wish, before it finally concludes its work, to hear evidence on changes in law and practice that have occurred since the Inquiry was established and I would encourage it to do so.

52. Scottish Government's work in this area is strongly influenced by the policy approach known as "Getting it Right for Every Child" (GIRFEC) which was launched in 2006. It remains the Scottish Government's overarching policy for all

children in Scotland, which aims to improve outcomes and support the wellbeing of children and young people.

53. A significant milestone was the passing of the Children and Young People (Scotland) Act 2014. It provides a legislative framework for further embedding GIRFEC principles and the United Nations Convention on the Rights of the Child (UNCRC) into Scots law. It places duties on the Scottish Ministers and the wider public sector to ensure that children's rights influenced the design and delivery of policies and services and requires that to be evidenced and reported. It also made provision to extend care services to the age of 21 (26 in some circumstances) to better support care experienced young people and defined the responsibilities of 'corporate parents'. Corporate parenting refers to the collective responsibility of all agencies of the state to uphold the rights, and safeguard the wellbeing, of care experienced children and young people.

54. In February 2016, the Scottish Government launched the Child Protection Improvement Programme. This put greater emphasis on identification and intervention to support vulnerable and at risk children so that their situation can be improved at the earliest stage possible. This involves a range of improvements by public and private bodies involved in child protection, including inspection and the children's hearings system.

55. On 15 October 2016, the First Minister announced an Independent Root and Branch Review of Care ("the Care Review") to consider the changes necessary to provide quality care and protection for Scotland's young people and ensure they have the childhood they deserve. In February 2017, Fiona Duncan (Chief Executive of the Corra Foundation) was appointed as Chair. The Care Review reported in February 2020. Its main report was entitled 'The Promise'. It concluded that a fundamental shift was needed in how decisions are made about families and children, underpinned by a redesign of the care system. This is largely centred on principles of early intervention and prevention, and by protecting and supporting safe, loving, respectful, relationships. The Scottish Government has fully accepted the conclusions of The Promise and the First Minister committed in the Scottish Parliament on 5 February 2020 to "keep the Promise" outlined in the report.

56. The Scottish Government introduced the United Nations Convention on the Rights of Children (Incorporation) (Scotland) Bill in the Scottish Parliament on 1 September 2020. The Bill, if passed, would directly incorporate the UNCRC as far as possible within the legislative powers of the Scottish Parliament and make it unlawful for public authorities to act incompatibly with the incorporated UNCRC requirements. The intention is to ensure that children and young people are involved in the decisions that affect their lives and that children's rights are always respected, protected and fulfilled by public authorities. Where necessary, the rights to be given effect by the Bill could be enforced in court.

57. The steps that have been taken by the Scottish Government to respond to survivors of abuse and to improve child care and protection for the future are driven by a commitment to ensure that compassion, fairness and justice are at the heart of our approach.

Response to evidence of survivors

58. The Scottish Government expects this Inquiry to find that it failed survivors in certain respects. I do not shy away from that and indeed I understand the importance of the Inquiry's scrutiny for survivors and for the accountability of government.

59. I have referred already to the report produced by the Scottish Government on the period from 2002 to 2014. I repeat here the Scottish Government's apology in chapter 1 of that report in response to the evidence given by Helen Holland, David Whelan and Christopher Daly in 2017. The Scottish Government fully accepts that its engagement with these survivors and through them, with the groups they represent, was not always as it should have been and indeed on some occasions was wholly unacceptable. On behalf of the Scottish Government, I am extremely sorry that was the case and apologise unreservedly.

60. I also know that many survivors believe that in the period 2002 to 2014 Scottish Government failed to understand their needs and to genuinely involve them in the

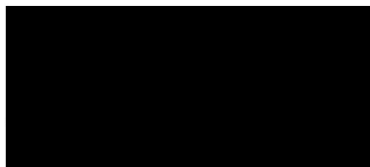
work that was undertaken to respond to those needs. On behalf of the Scottish Government, I apologise to survivors for that.

61. There have been different views in government and amongst stakeholders, including survivors, about what the right thing to do was at different points; whilst genuine, substantive, actions and interventions were taken by the Scottish Government in response, the Scottish Government nevertheless regrets that it did not do more at the time to listen to those survivors who advocated for steps we later took – not least of all, those survivors who are sadly no longer with us. On behalf of the Scottish Government, I apologise unreservedly that we did not respond sooner and more appropriately to the concerns of survivors.

62. As the Inquiry's work progresses the detailed nature of past failings, by both public and private institutions, which allowed abuse in care to happen will become clearer. The Scottish Government, and indeed the Scottish Parliament, will want to apologise again to survivors and their families when the full extent and nature of those failings are known. But clearly, government did fail. I apologised to all survivors of abuse in care in Scotland, before the Scottish Parliament, in October 2018. Since then we have heard more moving evidence from survivors about their experiences and the Inquiry's findings continue to vindicate the experience of survivors. I want in the context of giving evidence to the Inquiry to reiterate the apology I gave in October 2018.

63. On behalf of the Scottish Government, I offer an unreserved apology to everyone who suffered abuse in care in Scotland. We are deeply ashamed of what happened.

64. I have no objection to my witness statement being published as part of the evidence to the Inquiry. I believe the facts stated in this witness statement are true.

Signed..... 

Dated..... 5/11/20