

Scottish Child Abuse Inquiry

Witness Statement of

Catherine JAMIESON

Support person present: No

1. My full name is Catherine Mary Jamieson. My date of birth is [REDACTED] 1956. My contact details are known to the Inquiry. This witness statement is to give information to the Inquiry regarding some of my portfolio responsibilities as the Minister for Education and Young People and Minister for Justice when I was a member of the Scottish Executive.
2. This statement is based on my recollection aided by documents. I have seen documents provided to me by the Inquiry and the current Scottish Government.

Term of office as an MSP

3. I am a member of the Scottish Labour Party. I was a member of the Scottish Parliament (MSP) for Carrick, Cumnock and Doon Valley from 1999 until 2011. I served as Minister for Education and Young People from November 2001 until May 2003. My predecessor was Jack McConnell and my successor in that post was Peter Peacock. After the election in May 2003, I became the Justice Minister. I served in that capacity until May 2007. My predecessor was Jim Wallace.
4. I was a Member of Parliament for Kilmarnock and Loudon, at Westminster, from 2010 to 2015.

Before being an MSP

5. Before I became an MSP, I obtained a BA (Hons) in Fine Art from the Glasgow School of Art. I also have Postgraduate Higher Diploma in Art from Goldsmiths College, University of London which is an art therapy qualification, and a post graduate Management qualification from Glasgow Caledonian University.

Social work

6. I have a post graduate Certificate of Qualification in Social Work (CQSW) from Glasgow University. I qualified in 1983 and worked in various posts and areas within Strathclyde Regional Council. From 1992 to 1999, I worked for Who Cares? Scotland. I am currently the Chief Executive of children's services in Care Visions.
7. I worked as a trainee social worker in Glasgow in 1980, before my studies at Glasgow University. I worked in Ayrshire as an area team social worker from 1983 until 1986. I was a generic social worker so did a range of casework. I was interested in child care and therefore took on a lot of child care cases. From 1986 to 1988, I worked in Renfrewshire as a community intermediate treatment worker. The role was essentially doing group work with children and young people who were at risk of coming into care. The aim was to keep them out of care through early intervention. I returned to Ayrshire from 1988 to 1992, as a senior intermediate treatment worker. In this role, I set up and managed an intensive group work programme for young people at risk of being received into care. This was particularly in relation to those at risk of going into the List D system and the secure estate.
8. In 1992, I joined Who Cares? Scotland, which is an advocacy agency for young people in care as the Principal Officer, with a remit to establish the organisation across Scotland. I was initially seconded from Strathclyde Regional Council for a period of two years. However with the changes then taking place due to local government reorganisation, I gave up my substantive post in the Council to remain with Who Cares? To ensure that progress was continued and funding secured from the new local authorities.

9. When the Scottish Parliament came about, I was encouraged by many people to stand, particularly as the aim was to secure 50/50 gender balance. This was my first experience of elected politics, as I had previously been very much behind the scenes as a volunteer. In early 1999, I was put on the Scottish Labour Party's panel of candidates for the Scottish Parliament elections and was going through the selection processes for a seat. Since my post in Who Cares? Scotland was partly funded by the then Scottish Office, I thought that it could be seen as having conflicts of interest, so I decided to resign from my post at Who Cares? Scotland. I continued to take an interest in the organisation during the years I was in politics, but was not involved on a regular basis.

The Edinburgh Inquiry

10. I was a panel member on the Edinburgh Inquiry, along with Kathleen Marshall and Alan Finlayson.
11. The decision to have the Inquiry was I believe down to elected Councillors and Senior officials within the council who took the issue of abuse in care very seriously, and decided that they wished to address the issue in relation to their own services. I certainly never felt there was any pressure from the central government of the day on the council to have the inquiry.
12. There had been convictions of individuals and that had triggered the inquiry, Given my experiences in social work and Who Cares? Scotland, I did not need to be convinced that abuse in care happens. However I was going in with an open view as to the circumstances in Edinburgh. My view was always that abuse can and does happen and we have a responsibility to start from that perspective, rather than assuming that it could not possibly happen.
13. Even before the Edinburgh Inquiry, I would have viewed the question of abuse of children in care as something that has happened, as I had worked with young people who had been through the process, including some who had given evidence leading

to convictions being secured. I had been aware of young people being abused in foster care, in mainstream residential settings and also in some of the List D schools.

14. People we spoke to during the Edinburgh Inquiry said that they had previously reported abuse between 1973 and 1987. They had varied experiences talking to the panel. There were some people who just wanted to know and hear that they were being believed, because the system, up until then, had not believed them. There were others who thought that the Inquiry would mean it might go into the court system and end up in a compensation situation. It is difficult to remember all the different interviews individually, but there was a sense of people actually just wanting to be believed.
15. One of the things that the Edinburgh Inquiry looked at was if there was any suggestion that individuals or perpetrators involved in abuse were part of a wider organisation abusing children. We did not find that that was the case, but what we did find was that there were a number of areas where the checks and balances in the system had not been enough to pick up what the individuals were involved in. This raised the question as to whether they were systemic failures. On one hand, the answer is yes, because it was not picked up. However, although it was a failure in that particular organisation, I struggle with the notion that it was the same systemic failure throughout all of child care in Edinburgh, as there were examples of good practice.
16. One of the systemic failures that was referred to in the Edinburgh Inquiry was around whistleblowing. People did not know where to go or what to do if they had that concern. Later as a Minister, when I was going through the Scottish Executive papers which I had asked to be made available to me, they showed that there were a number of police inquiries that had been going on involving List D schools. I thought that was significant because it meant that it was not always the case that people were not coming forward and reporting things. It did mean that when things were being reported, they perhaps were not being handled appropriately.

17. The Edinburgh Inquiry published a report in 1999. There were about a hundred recommendations. At the time, perhaps we were feeling that much of what we were producing was not rocket science and we were essentially pulling together things that people should already know. There were however, significant recommendations around corporate parenting, childrens rights and a Childresn Commissioner.

Minister for Education and Young People – November 2002 - May 2003

18. When I was asked to take on the role of Minister for Education and Young People, the First Minister, Jack McConnell, made a very specific request of me to focus on social work because there was a number of things that needed to be looked at. Jack had a genuine and passionate interest children and young people and I came with a background in social work. I probably had more of a background in social work than some of the officials in the department. That is not to be critical, but was the reality.
19. There was a general sense of people at a ministerial level wanting to make things better. There was a real focus on issues around wider child protection and wanting to put things in place that were going to make better some of the problems that had been around for years. As First Minister Jack McConnell was keen to show leadership on that.
20. By the 2003 election, there was already a specific child protection programme in place, but it was about general child protection. The reality is that the majority of young people who are abused tend to be abused by people who know them. By getting child protection right for every child, we get it right for young people in care as well. Notwithstanding that, there were particular protections that needed to be put in place for young people in the care system.
21. There was a coherent programme that we wanted to do at that time. Legislative change happened and I also took forward work in relation to degree level qualification for social workers. As Minister for Education and Young People, I was

responsible for, and took through, the Protection from Abuse Scotland Act 2003, which was the legislation setting up Disclosure Scotland and the list of unsuitable persons. That was largely within the child protection remit and looked at people who work with children, including those in the community.

22. My experiences working for Who Cares? Scotland and working through the Edinburgh Inquiry undoubtedly shaped the changes that I wanted to see in policy as a Minister.
23. The Edinburgh Inquiry also influenced my view that there needed to be an overarching Care Inspectorate, also a professional body for social workers to be accountable to and a code of conduct. These are things which actually went on to be enacted in legislation at a later date.
24. The Scottish Parliament Education Committee, supported by the Scottish Executive, was able to bring forward a bill that led to the establishment and appointment of a Children's Commissioner. This was a significant change that was progressed quickly.
25. I think the creation of a Children's Commissioner, the Care Inspectorate and the SSSC were all part of a package. Accountability and a code of conduct needed to be in place for social workers, so that there was clear external oversight. There was also a need to have someone whose first and foremost interest was the wellbeing of children and who would be prepared to challenge government, the Care Inspectorate and anybody else where it was necessary.

Chris Daly's Petition

26. It is hard to recall the exact point that Chris Daly's petition, which was lodged with the Public Petitions Committee ("PPC") in August 2002, was brought to my attention. I think, initially, the clerk to the PPC had written to the Health Department and it went round the houses before eventually coming to us.

27. Officials wrote in a briefing that there was no evidence of wide spread systematic abuse. Their view was that there was nothing to investigate. It may have been a bit of semantics, but there is a difference between systematic and systemic and they used systematic.
28. I do not know what was going on in the officials' minds at the time of writing it. My feeling at that stage was that their default position was not to do anything because it was really not our responsibility. At that time, the Scottish Executive was still pretty new and there was the general worry that if the Scottish Executive accepted anything then that would potentially leave them open to being solely responsible, rather than also the local authorities or any other organisations. I think there would probably have been a default position not to do anything because there was enough to do in other areas.
29. My view, however, was that we could not just say that it was not happening in Scotland when there were clearly issues elsewhere, such as in Wales, Australia and Ireland, for example. I had no evidence in front of me to say that there were organised paedophile rings, but that was very much what was in people's minds at that time.
30. I was at pains to point out that we cannot just simply say that this has not happened or does not happen. That is why I wanted to have a wider look at the issues surrounding Ireland. In Ireland there was an apology and the setting up of a compensation scheme. It seemed reasonable at least to be looking at it. I did not think it was at all correct just to write back to the PPC and say it is sorted and we are not doing anything.
31. To me, it was clear that abuse had happened, it does happen, it is wrong, and we need to give the message that it is wrong. Therefore, we needed to keep our options open until we had looked at it in a bit more detail before deciding on the best courses of action. I was really keen that we actually did something rather than just pondered on it for a long period of time.

32. I was concerned about immediately moving to a certain sort of public inquiry, which was not necessarily going to be helpful. To an extent, that was influenced by the Edinburgh Inquiry and I felt that an inquisitorial rather than adversarial approach was more likely to produce something. My view was that we should not rule out any type of Inquiry, because, if we did that, we would box ourselves in and then it would give the impression to the petitioner that we either did not believe what was going on or we were not taking it seriously. I thought it was much more useful to keep our options open, but to go back and look at the whole range of things that we are actually trying to do in terms of child protection.
33. In terms of being a relatively new Parliament, we were keen to make things happen, get legislation done, and did not want to be seen to be putting issues in the long grass. Waiting may also have affected time-bar cases. I felt that if we waited for a report then we could have missed an opportunity to do things.
34. As a Minister, there is always a judgement call to be made when there is a public outcry and media attention. You have to cut through that and determine what the right thing to do is. Sometimes it is to act and sometimes it is not. At that time, I thought that there was enough evidence for us to be doing something. That something could have been an inquiry, a public inquiry, or pulling together all the strands of the work that we were already doing and having a good and decent look at it.
35. I sent back a response to the briefing, via my Private Secretary, which quickly produced a follow up with a completely different recommendation. It was revised to keep open the possibility of an inquiry, and to offer expressed regret about past child abuse. It was a shift from the original position presented by the officials. They were made well aware of my strength of feeling on it.
36. Thinking back, the tone of my response suggests that my view at the time was that I was not very happy about the fact that we were just going to say and do nothing in response to the petition. I did not think it was credible and so I was probably slightly

more forthright in my response and my Private Secretary has probably captured that very politely.

37. One of the dilemmas as a Minister is that you are relying on the advice that comes from your officials. Had I not had a background in social work, I might have relied on the first briefing and accepted that there was no problem or no issue, and sent it back to the PPC. I did not do that, however, because of my experiences and the background information I had.
38. It is clear from the papers, that when it was first brought to me, I dealt with it really quickly. I cleared it in November 2002. It was not my habit to sit on things for weeks and weeks, and certainly not something like this. Having been a backbencher and then coming in as a Minister, I was acutely conscious of the fact that the Scottish Parliament has a role in these things, and there is nothing that people dislike more than Ministers not responding. I always tried to make it a priority to turn around parliamentary questions or letters quickly, but as a Minister you can only do that as quickly as your officials bring things to your attention.
39. There was no reason once I had signed it off, why it should not have gone to the PPC soon after it. The responsibility was in the hands of the officials to make sure that happened, and they would be the ones that would keep an eye on the diary and the timescales and make sure that things were submitted accurately and on time.
40. Although I cleared it in November 2002, it did not go to the PPC until 17 February 2003. I cannot recall any reason why that would have taken so long. I would have expected it to have been turned around quickly. However, my recollection has been aided by seeing correspondence. An email was sent from an official dated 3 December 2002 to various people, including personnel in the police division of the Justice Department in the Scottish Executive, the Crown Office, Peter Beaton, a solicitor of OSSE and other officials. The email was discussing having a meeting with officials, which is scheduled for 12 December 2002, but then is postponed until January 2003. The purpose of the meeting was to discuss the wider issues on past institutional child abuse. The email refers to officials trying to put together a clearer

picture of the prevalence of cases both past and currently in the system. I wanted a clear picture of what the situation was then and also historically. I wanted this to be checked across the Scottish Executive and not just in the Looked After Children Division.

41. I also wanted to discuss issues such as time bar which weighed heavily and to have a picture of the number of cases that were in the system that might be affected. We needed to know what the whole list of things were that we needed to sort out. I was very conscious that the police and Crown Office might have had information that the Looked After Children Division would not have had. I was really trying to bring some of those strands together.
42. The email also refers to the odd local authority home but the vast majority concern cases that were run by the Catholic Church. It also states that there were 300 cases involving List D schools, and goes on to say *"of course this is of very little real assistance in assessing the extent of abuse."*
43. I am not sure what to take from that. Maybe it was thought that I was just looking for confirmed cases. Actually, it is quite helpful in assessing the extent of abuse. One of my concerns at that time was around the fact that there were people who were making a distinction between children's homes and the List D sector. I think that may have been because the way the Scottish Executive had been set up and they were being dealt with in different areas.

Meeting of 6 January 2003

44. The proposed meeting took place on 6 January 2003 and was attended by Colin MacLean, the Deputy Crown Agent, Peter Beaton, Ian Fleming, and Gerald Byrne. A note of the meeting was prepared by Peter Beaton of the Looked After Children and Young People Division. The meeting was a discussion about the next stage and to create a work plan to feed in to what we were going to say to the PPC. I had thought that my response had gone to the PPC and so I was anticipating that something might be called by them prior to the Scottish Parliament rising at the end of March

2003 for the election. I was not aware that the response had not yet gone to the PPC.

45. We wanted to set out what needed to be looked at, what the various expectations were, which different parts of the system would do the work to potentially come back with a solution.
46. I was quite keen to get information from the police forces. I wanted to see if we could marry up what we thought was happening and whether it was going to the police. That might seem obvious now, but it was not at the time. It was not necessarily the case that everybody would be talking to one another, so I wanted them to do a trawl.
47. I could see that reports were being made, prosecutions were taking place, and people were being convicted, so it was not that nothing was happening. I got a sense that these were not an isolated couple of incidents. They were also not restricted to residential workers. There were people in the religious orders, teachers and social workers involved. It was not necessarily a surprise for me, but it pointed out that evidence existed and there was more going on than people first thought.
48. 160 former pupils were being interviewed from St Ninian's Falkland, where the Christian Brothers were reported for sexual and physical abuse. To interview 160 former pupils is a fairly substantial task, but that was done so people were taking it seriously.
49. During the meeting, we discussed what had been done in Ireland, and also tried to begin encapsulating the actions that potentially needed to be taken.
50. It is recorded in the note that Ministers were concerned that allegations of institutional abuse in Scotland would continue to trickle out. What that meant was that cases were regularly featuring in the media. I felt there needed to be some forum to allow people the opportunity to say what they needed to say. In my mind, at that stage, I was considering if we needed to set up a full panel of an inquiry, or whether there was some other way of allowing people to come forward and make it

easy for them to report their experiences to the appropriate authorities and for some kind of action to be taken. The issue of compensation and how that needed to be addressed was also discussed.

51. At that stage I do not recall there being any further discussion about a public inquiry because there were a series of things in train already around wider child protection.
52. It is recorded in the notes of the meeting that I said: "*I think the responsibility upon a Minister is to ensure that things are solved.*" That is the kind of thing I would say because I was very fond of saying: "*don't bring me the problems, bring me the solutions*".
53. I had accepted that there was a problem with abusing children. There might have been an uncertainty about how big a problem it was and we had to try and get a sense of the scale of it. We had to begin to look at the range of things that needed to be done.
54. The revised briefing of 14 November 2002 was sent to the PPC on 17 February 2003. In March 2003, they replied by requesting an update from the Scottish Executive by the middle of June 2003. I had always assumed it was dealt with by the end of 2002.

Minister for Justice

55. The Scottish Parliament rose by the end of March 2003 the election in April. Nothing else happens around then other than the general signing off of ministerial correspondence. Following the election, I became Justice Minister, so I did not carry lead responsibility for the matter.
56. I was pleased when the First Minister told me he was appointing Peter Peacock as my successor in the post of Minister for Education and Young People. I trusted that Peter was a good, solid, decent Minister and I had absolute confidence in him.

Ministers' meeting of 25 September 2003

57. As Justice Minister, I attended a meeting of Ministers on 25 September 2003. Peter Peacock chaired the meeting. I have seen a briefing and minutes from this meeting, but I do not remember the detail.
58. The purpose of the meeting was to consider four options with regard to the issue of abuse of children in care, one of which was a full inquiry in public or private by a senior figure involving a wide range of remit and evidence from witnesses, counsel and parties affected. The second option is a truth and reconciliation commission allowing survivors of abuse to tell their stories in private, but not as evidence and probably without counsel. The third option is no inquiry but a package of other measures, including access to files, improved health and social care services for survivors of sexual abuse and, in some cases, compensation. The fourth option is to do nothing.
59. Various points are made during the discussion which are all noted in the papers. There is discussion around the issue of abuse not being confined to residential care and that there were other forms of abuse to be considered, for example, physical and emotional abuse. There was a lot of further discussion laid out in the documents and the course of action was agreed.
60. With regard to a public inquiry, there is discussion about how a public inquiry is unlikely to help individuals or help to improve things for the future. There are opinions expressed that it would only reveal lessons already learned about residential care in that period. There is also a point made that the purpose of a commission is unclear and operational questions such as how any such commission would fit with the legal redress system were problematic. There is a further concern raised, that both a public inquiry and a truth and reconciliation commission, would involve heavy costs, most of which would be likely to accrue to legal and other advisors, rather than to the victims themselves.

61. Within that briefing, a recommendation is made to not set up an inquiry or a commission into the cases. The justification given at that stage is that neither the weight of cases, nor the nature of the allegations, indicate a systemic failure or organised abuse that might justify a full inquiry.
62. From reading that, I can see that there now seems now to be a separation of systematic and systemic. What I suspect is happening is there is an issue of semantics, where the words 'systemic' and 'systematic' have been used interchangeably, which is not very helpful. I do not know what the officials were thinking, but I think that although they were rejecting that there was a systemic failure, they were accepting that something was being done about the failures in the system, so there is maybe a wee bit of tautology there. The way I viewed it was that if circumstances were such that abuse was being allowed to happen, then there was a problem, so there does seem to be a difference between how the officials were interpreting the issues from how I would have. If I had received that briefing at the time, I think I would possibly have referred back to the 300 cases in the List D system as that is a substantial number of cases.
63. The key issue for us at that time as Ministers, was to consider what we were going to do in terms of the victims and trying to get them services. A lot of discussion was around what to change in terms of legislation, how to put in place the safeguards, and ensuring that the victims were able to get access to the information if they wanted to pursue their claims. We also wanted to have some way of giving them the opportunity to have a voice to tell their stories.
64. In relation to the truth and reconciliation commission, it is discussed in the papers that an informal setting, away from the full legal methods of taking evidence and representations, may encourage more people to come forward. There is then further discussion about that disclosure of abuse can result in traumatic episodes through the re-living of experiences. Those were arguments presented against having the commission. It was then suggested that if people wanted to disclose abuse then they would be better served through accessing health and social services available to them.

65. I recognise that there is the issue about vicarious trauma and people reliving experiences, but that does not mean that nothing should be done. It was recognised that it was not enough to just open the door for people, but that actually support should also be provided.
66. I think it would be fair to say that a full inquiry was not something that officials would necessarily have seen as something that they wanted to open up at that particular point in time. From my perspective as a Minister, albeit in a different department at that stage, I was concerned with what we were going to do and how to achieve those series of actions. By that time, I was moving on to dealing with things like the experience of vulnerable witnesses at court, so for me there was a progression of things that we were taking on as an Executive and still doing.
67. I think it would also be fair to say, with no disrespect to anyone, that there was a sense that if we were going to spend money then we may want it directed to the victims rather than tying up a whole load of costs for many years in a lengthy inquiry, which would not give rise to any of the immediate things that needed to be done. I think that was the general mind set amongst the Ministers. I think the officials might have had different reason for not wanting an inquiry.
68. I did not see those papers at that time, but I think there would be things around the evidence that I would have challenged. My concern throughout the whole process was always about what we were going to do and how to support people. The idea of setting up a package of measures and actually doing something was what I was in broad agreement with.

The First Minister's response

69. The Minister for Education and Young People sent the options that had been considered to the First Minister, in a minute, in December 2003. The First Minister, Jack McConnell, responded in the lead up to Christmas, by stating that there was a fifth option, which was the appointment of an independent expert to review the

position. He was keen to do this because he had been very supportive all the way along of not ruling out every option.

70. Jack McConnell took his role very seriously and always considered the detail of things like this. Here, he was not entirely comfortable with what had been proposed and wanted something different. I think he saw that getting someone to have a look and provide a report would be a way to cover a number of bases. It would get more information, pull it together and give some of the victims a voice without there having to be a full blown public adversarial inquiry.
71. My understanding of what the First Minister had in mind was that we should have someone who was aware of the circumstances around abuse in care and who could produce some kind of report on that basis. That person could look into it and potentially interview the appropriate people, including victims, before producing a report.
72. I am not sure that looking at records alone would necessarily have shed the light that the First Minister wanted. I understood him to mean that the person reporting would also speak to people. However, I may have picked that up wrongly and may be recalling that with the benefit of hindsight, and hoping that that is what he meant, but that was certainly my view.

Response and action taken by the Minister of Education and Young People and officials

73. I have been asked about the documentary evidence of the process within the period of the fifth option being put on the table by the First Minister, in December 2003, and a briefing which was sent to Peter Peacock on 20 May 2004 by Gerald Byrne.
74. My understanding is that normally if a Minister asks for something to be done, the officials would go and do it, but if the First Minister asked for something to be done then all of the senior officials, including his own private office, would have been tracking that through.

75. I cannot explain the delay, but I do find it surprising that the First Minister's expressed views were not picked up. Once the First Minister has decided that he has a particular view on how he wants things done, it would be incumbent on officials to find a way of putting that into effect. Therefore, somebody in the department should have been looking at that and driving it.
76. The advantages of a form of inquiry by a single person, as some would view it, are that it would be less expensive, allow the opportunity to be heard, take into account more recent developments, and not cut across any of the legal actions.
77. I am asked what I think of the disadvantages, which are said to be that it would not satisfy those who want compensation, or make findings of guilt against individuals. I do not think this kind of one person inquiry would be set up to deal with findings of guilt, because that is a matter for the courts. Compensation had not been ruled out. It had been shelved pending the courts dealing with the test cases on time bar, and with a view that, at some point, we would probably have to put something in place.
78. I was not aware, at that stage, of Peter Peacock's appearance before the PPC or of any ministerial discussions around it. It would not have necessarily come to Cabinet unless there had been a real change of approach. My recollection of Cabinet getting involved is at the time of the apology and the report.

Cabinet meeting of 14 November 2004

79. I attended the Cabinet meeting on 24 November 2004 at which the apology was discussed. There was no opposition to the proposal. We discussed the taking forward of the timing of the apology and who should make it. Also, there was advice coming to the First Minister and the Deputy First Minister on the wording, so the principle of the apology was pretty much there. Therefore, by implication, the package of measures also became acceptable.

80. Jack McConnell was always going to make an apology. I think, at that stage, people were much more focused around the questions of what he was apologising for and on whose behalf, and what the implications would be for the Scottish Executive. There was quite a lot of advice, including legal advice.
81. I think there were anxieties around the terminology of "apology" and that was a frequent thing around the Scottish Executive at that time. It was thought that if you apologised then you were admitting to something. Jack McConnell did not share that view and was clear that he was going to apologise. I was fully in support of this position.

The debate and the apology – 1 December 2004

82. During the week leading to the debate on 1 December 2004, there were various discussions with voluntary organisations and others, as would be normal practice. This was to try and alert people to the fact that something significant was going to happen. I think Jack McConnell's view at the time was that he was going to get up and give this apology and, thereafter, it was incumbent on other organisations to look at themselves and consider what they were going to do. We were always quite clear that we were not taking on the responsibility to absolve everybody else, but that it was part of a process.
83. I think that the wording was probably constructed as a bit of a compromise to allow the First Minister to apologise, but the net effect of that later was that it became a bit of an issue for some of the victims. They initially probably thought it was good, but then began to unpick it and think about what it really meant. They had a real view that it was the state, generally, that ought to be held to account, and they were not all that interested in whether it was the local government, central government or the

individual. I think the point that was made by some of the victims at a later stage was that "the state" should be apologising and not Scotland.

84. The shape of the state had changed several times during the intervening years including the creation of the Scottish Parliament and changes to the local government system. The victims were not interested in the minutiae of that, but much more around the state and the establishment taking responsibility.
85. The apology came on 1 December 2004 and there was a debate during which Peter Peacock introduced the appointment of an independent expert. Some people were still in favour of a public inquiry, but there was not a clear consensus for one. It was not a big division on it at the end of the day. If there had been, then pressure could have been put on the Scottish Executive to have one.
86. I remember the day when the apology was made as being a very significant day at the Scottish Parliament. I do not think it was necessarily what everyone was expecting. I think it probably did surprise some of the other parliamentarians who had maybe been expecting that the First Minister would stand up and give another reiteration of what had been said before.

Time Bar

87. After the apology, my role lessened. I did not have a direct involvement in getting the Shaw report off the ground as I was in the Justice Department at that stage. I was involved in time bar but I was also doing different pieces of justice legislation. Peter Peacock was continuing to lead on taking things forward as the Minister for Education and Young People. Malcolm Chisholm was dealing with survivors groups in terms of health.
88. By 2005, matters were in the hands of the Scottish Law Commission in terms of the time bar and cases were going through the courts. My general view in relation to time bar may have been a bit naïve! I thought that if Ministers were referring

something to the Scottish Law Commission for review, it was because they believed the current situation was not fit for purpose, and so I would have expected that something would change. I hoped and expected that they would come back with proposals for change.

89. The Shaw Report was published in late 2007. This was around the same time as the Scottish Law Commission Report, which recommended that there be no changes to time bar. I was disappointed by this, because I had genuinely hoped that they would have made the recommendation to change this. I felt quite strongly that that was going to be one of the ways in which some people would have been able to seek redress.

Reflections

90. It is difficult to look back in retrospect and consider how I would have responded if I had still been Justice Minister at that stage. I would have wanted to have had further discussions to look at the implications. I would have wanted to see what else we needed or what else we could have done. Following up from the Shaw Report, there would probably also have been the broader issue of considering whether myself or other Ministers could potentially pull together some kind of debrief on where we were at that stage with the recommendations and what we were going to do from thereon. I think one of the difficulties when that kind of thing lands within a new government is that people do not necessarily have the previous history, so getting recommendations or getting the information just lands in a different way and it can get lost.
91. Jack McConnell's position was that things would have happened had he remained in power, and I have got no doubt about that. He said that something would have had to have been done to address the issue of time bar, particularly given the way the courts looked at matters. He talked about some compensation scheme that might have to be considered and put in place.


92. Whatever the Law Commission came up with post 1964, there was likely to be a fundamental problem with pre-1964 claims. I think that is why I was keen at the very outset to look at what happened in Ireland and elsewhere. There was always a sense that we might ultimately need to put a compensation scheme in place that gave some degree of justice to folk who might not be able to get that through the courts or by other means. I think there is a sense of natural justice that they have some vehicle to get redress. If it cannot be through the courts, then I think there is a strong argument to say that something should happen elsewhere.
93. For the people that are post-1964, we still have to look at the time that is going to be involved and the stress and pressures for people going through that process. Also, there has got to be a recognition that some people may not want to go through the courts and that is not everyone's ultimate aim. I know many people who have gone through the criminal injuries compensation route, not for the money, but to have the system believe them.
94. There are people who will not talk about their experiences until much later in life and that was always one of the issues around the time bar.

Closing thoughts

95. The decision to have a public inquiry came in 2014. By that stage I had not been closely following the processes from 2011 to 2015. I was very focussed on a different agenda, so I was fairly agnostic about it when it came around.
96. I honestly did not think that a public inquiry was the only way to bring closure. I think other things could have been done. I would have liked to have seen something which would have taken forward, in a more structured way, laying out what was going to be done next for the victims.
97. The decision to have the Inquiry was made, and as a politician, you have to come down on one side or another and then justify it. When the decision was made, I sincerely hoped that it was not going to be parked for years and that some work would actually get done, because ultimately there is going to have to be some

changes made in legislation, and probably also a redress scheme of some sort set up.

98. No matter what any inquiry produces, there will still inevitably be some people who will feel that it is not enough because we cannot turn the clock back for people as much as we would like to.
99. I think if there are any recommendations that come out of the Scottish Child Abuse Inquiry, it ought to be in terms of safety, to look at whether we have all the checks and balances and safeguards in place, the lessons from the past, and particularly around young people being heard and supported.
100. There have been huge changes already, and sometimes it is frustrating for me when I hear younger members of staff saying nothing has ever changed. There have been substantial changes in the time that I have been involved, but whether we have done enough is always up for debate. As I currently work in the care sector, this is very much a day to day issue, both in terms of practice and organisational oversight and governance.
101. 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.....02 August 2020.....