

# Scottish Child Abuse Inquiry

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

### **What is a public inquiry?**

A government minister can establish a public inquiry to investigate and report on a matter of public concern.

A public inquiry is impartial and completely independent of government. Its conduct and procedures are determined by the Chair but they usually include recovering relevant documentary and other evidence, taking statements, holding public hearings where oral evidence is given, analysing the outcome of its investigations and evidence gathering, and making recommendations in its report(s).

### **What is this inquiry about?**

The tasks of the Scottish Child Abuse Inquiry (SCAI, or the Inquiry) are determined by a Scottish Government Minister and are set out in its wide Terms of Reference (ToR).

SCAI's ToR direct it to investigate the abuse of children in care in Scotland. That includes identifying the nature and extent of that abuse, its impact on children and their families, whether those responsible for the provision of care failed in their duties, whether any failures have been rectified, and whether changes to the law, policies, or procedures are required.

SCAI's procedures include case studies in the course of which the provision of care by a particular organisation or of a particular type is investigated and examined. They are usually presented at public hearings. Case study findings are usually published following the close of a case study.

When SCAI has completed its work, it will present a final report to the Scottish Parliament.

### **What powers does SCAI have?**

The Chair of the Inquiry has various powers. They include the power to require individuals and organisations to provide relevant documentary and oral evidence.

Whilst the Chair of the Inquiry, The Right Honourable Lady Smith KC PC, is a retired senior judge, SCAI is not a court. It is a public inquiry. The Chair does not have the

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<sup>1</sup> SCAI uses the term 'applicant' to refer to any person who tells us they were abused in care as a child in circumstances within our Terms of Reference. A 'member of their family' includes any person who an applicant regarded as a family member.

power to make any finding of civil liability, she does not have the power to award compensation, and she does not have the power to find anyone guilty of having committed a crime.

## **Can I give evidence to SCAI?**

**Who** – You can give evidence if you want to tell SCAI you were abused in care, in circumstances within our ToR, when you were under the age of 18.

**Where** – ‘In care’ means in any residential care including in foster care or at a boarding school, as a boarder. You can give evidence whether or not you have claimed compensation for that abuse, whether or not you were involved in a police investigation, and whether or not you have been involved in any court case.

Your evidence may also help SCAI even if you were not a child in care. You may want to offer evidence about a family member who you believe was abused when in care. Please contact us and a member of SCAI will advise whether the evidence you have to offer would be of help.

**When** – SCAI wants to hear about abuse of children in care at any time within living memory up to 17 December 2014.

## **Talk to us**

You can tell SCAI about your experiences of abuse. Talking to us will help us build a clear picture of what happened to children in care in Scotland in the past. It doesn't matter if the person you name as your abuser has died or whether or not you reported the abuse in the past.

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

By talking to us you will help SCAI make recommendations to protect children in Scotland better in the future.

## **How to talk to us**

### Contact us

Contact SCAI's witness support team to let us know you are interested in talking about your experiences. You can:

- phone us on: 0800 0929 300
- email us at: [talktous@childabuseinquiry.scot](mailto:talktous@childabuseinquiry.scot)
- write to us at: SCAI, PO Box 24202, Edinburgh, EH3 1JN.

When you contact us, let us know if:

- you have any concerns
- you have a disability that may affect the way you need to share your experiences
- English is not your first language
- you need special arrangements because you are in a young offenders' institution, prison, or something similar.

### Apply

We will ask you to fill in a short application form. You can send the form to us by email or by post, or we can fill in the form with you over the phone. We will then check the form to see if your experiences are within SCAI's ToR.

If SCAI can look into your experiences we will contact you as soon as possible. You can change your mind at any time if you decide you don't want to talk to us or need more time.

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

### Private sessions and witness statements

You can tell us about your experiences at what SCAI calls a 'private session'. A witness statement will then be prepared.

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

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

Before the session it may help to think through what you would like to speak about, so you can share your experiences to the best of your ability and within the time available.

It helps SCAI if you can speak about your life before going into care, your time in care, whether you reported the abuse you are telling us about, and your life after care. It is up to you how much you want to say about these things.

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

We record private sessions to help us prepare your witness statement. We will ask you to read over the statement and sign it once you are satisfied that it is accurate. If

you have a disability or a difficulty that affects your ability to read over your statement, we can tailor the process to assist you.

The witness statement will be your evidence to SCAI. It will be a formal, permanent record of what you tell us. You cannot withdraw or amend your statement once you have signed it. But you can make a further statement if you want to say something more or different.

### Inquiry hearings

Some witnesses will be asked to give evidence at a public hearing. Not everyone who has given a witness statement to SCAI will be asked to do so. The whole or parts of the statements of some witnesses who do not give oral evidence may be read aloud by Counsel to the Inquiry at public hearings.

Inquiry hearings are more formal than private sessions. They take place in public. The Chair of the Inquiry will preside over the hearing and she may ask questions. Counsel to the Inquiry will be present and they will question the witnesses. Others who have an interest in the hearing and/or their lawyers may be in the room or may have the Chair's permission to follow the proceedings remotely. Members of the public and the media may also be present. Normally, all the questions are asked by Counsel to the Inquiry.

If you are giving evidence at an Inquiry hearing, your identity will normally be kept private, unless you decide that you do not want it to be. More information about anonymity is provided later in this factsheet.

Witnesses who feel they need special measures to be taken in order to support them at hearings, such as giving evidence from behind a screen or in private (with only key people in the hearing room), should raise their concerns with their witness support officer. The Chair will then decide whether it would be appropriate to make arrangements to accommodate their concerns. She may require further information before making a decision.

Every witness, when giving evidence, must promise to tell the truth. To do that the Chair will put each witness on oath or will ask them to affirm.

The Chair will not allow any witnesses to be questioned aggressively. What you say may, however, be tested in questioning as a matter of fairness to all.

You may be able to claim expenses, including travel expenses, for giving evidence at a hearing.

### **What will SCAI do with my witness statement?**

SCAI will consider carefully all witness statements and other evidence it obtains.

### Anonymity

Applicants, and members of their family, are normally protected by the Chair's [General Restriction Order](#) (GRO), which means that we will usually be able to protect your identity by appropriate redaction (blacking out of information in your statement that could identify you to the general public).

We may not be able to protect your identity in this way if the Chair decides that the GRO does not apply to you, which she might do if your identity and what happened to you is already in the public domain, for example because you have written a book or spoken to the press. If your name and your experiences are in the public domain in any way, including via social media, you should speak to your witness support officer about what that means for you.

Otherwise, if you wish to waive your anonymity we will ask you to sign an anonymity waiver. The witness support team will discuss this with you. It is important that you consider this decision very carefully, because once you have waived anonymity, it will not be possible for you to ask for anonymity again at a later date.

### Publishing witness statements

Most witness statements will be published on the SCAI website. Published statements will be appropriately redacted where identities are protected.

For more information, see our [Protocol on redaction](#).

### Sharing names and allegations

If you tell us that you were abused, we may have to disclose your name and allegations to the organisation responsible for your care at the time and to anyone you named as an abuser. We disclose that information on a strictly confidential basis. We have to do this to be fair to everyone involved in SCAI.

We may also have to disclose your name and allegations to people or organisations who hold information that we need. Again, we do this on a confidential basis.

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

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

### Can disclosure or publication be prevented?

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

### Names of convicted abusers

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

### Reporting to the police: alleged abusers

We have to disclose to Police Scotland the identity of anyone who we are told has abused children. This is because Police Scotland must be able to assess the current risk that person may pose to children and/or vulnerable adults. It is not for us to assess that risk.

We will also disclose to Police Scotland any information we receive that suggests that someone is at risk of harm or that there is a risk to their life.

### Reporting to the police: harassment/intimidation

If we are given information indicating that you, or any other witness, is being or has been harassed or intimidated, your/their identity may be disclosed to Police Scotland.

### **Do I need a lawyer?**

You do not need a lawyer to make contact with SCAI, or to come to a private session.

If you want a lawyer you can arrange this at any stage. SCAI may be able to help you pay for a lawyer if you need legal advice to help you engage with the Inquiry but cannot afford the cost yourself.

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

### **For more information:**

- phone the witness support team on: 0800 0929 300
- write to us at: SCAI, PO Box 24202, Edinburgh, EH3 1JN
- email the witness support team at: [talktous@childabuseinquiry.scot](mailto:talktous@childabuseinquiry.scot)
- look at our website at: [www.childabuseinquiry.scot](http://www.childabuseinquiry.scot)

### **For general enquiries:**

email us at: [information@childabuseinquiry.scot](mailto:information@childabuseinquiry.scot)

## Privacy notice

This notice explains our approach to collecting and handling your personal data.

We are an independent public inquiry and we exercise statutory functions under the Inquiries Act 2005, in the public interest. Our [Terms of Reference](#) require us to investigate the nature and extent of abuse of children in residential care in Scotland.

We publish various documents relating to our investigations and findings, and sometimes these may include some personal data. We need to process personal data to enable us to carry out our work.

We explain in this notice in general terms how we collect and handle personal data.

### Why we process your personal data

We process your personal data for a number of reasons, all of which help us to perform our duty under the law.

### How we collect personal data

If you contact us by telephone, email, or letter, using the contact form on our website, or in any other way, we will retain any personal data you provide to us in doing so, and we may use it to contact you about the work of SCAI. We may also use it to help us with our investigations and to help us decide which institutions or organisations need to be investigated.

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

If you provide us with evidence, for example by meeting with us to provide a statement, or in writing in response to a statutory notice under section 21 of the Inquiries Act 2005, or by attending an Inquiry hearing to give evidence in person at a hearing, or in any other way, we will retain any personal data you provide in doing so. We will also retain any personal data you provide in any communications we have with you. We will use any such personal data to help us do the work we need to do to fulfil our [Terms of Reference](#).

The law also allows us to recover records and information and we regularly require to do so. These can include personal data from a range of sources, including providers of residential care for children, local authorities, Police Scotland, the Crown Office and Procurator Fiscal Service, and the Scottish Government.

When someone visits our website we collect information to measure the use of the website. We do not collect information that identifies anyone but we do track how many individuals have viewed different pages so we know what information appears to be of most interest. Further information is provided in our [Terms and conditions](#).

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

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

The records we recover might contain personal data which could include sensitive data ('special category data') such as data relating to a person's racial or ethnic origin, health, or sexual orientation. Personal data might also include data relating to a person's criminal convictions ('criminal offence data').

## **How personal data is held**

We keep your personal data secure and only share it with those who need to see it.

Personal data is held in secure encrypted electronic storage systems which are only accessible by individuals working for or on behalf of SCAI. Any hard copy information is held in secure conditions within premises to which members of the public do not have access.

All personal data we receive is handled fairly and lawfully in line with data protection legislation.

## **Who personal data will be shared with**

We may have to disclose your personal data, on a strictly confidential basis, to organisations that provide(d) or arrange(d) residential care for children, to people who are alleged to have abused children in care, to organisations that hold records that could assist SCAI with its investigations, to experts instructed by us, or to the police.

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

Some people's identities are protected by the Chair's [General Restriction Order](#) and, unless they have expressly waived their anonymity, their identities will usually be protected by appropriate redaction (blacking out of certain words in evidence that could identify that person to the general public) before publication. Details of those who are entitled to such protection are set out in the Chair's [General Restriction Order](#). If you are concerned or unsure about whether your personal information may be made public, you can ask our witness support team about whether you are protected by the [General Restriction Order](#).

## **Data controller**

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

Each year SCAI registers with the Information Commissioner, who supervises compliance with data protection legislation in the UK. A copy of our current registration certificate is available [here](#).

## **Data retention**

If you contact us by telephone, email, or letter, or if we contact you, we will retain any personal data that, in doing so, you provide to us. We will do so solely to enable us to carry out our work. We will generally retain the data for the duration of the Inquiry. Under our [Terms of Reference](#) we are required to create a national public record. The Inquiries Act 2005 and the Inquiries (Scotland) Rules 2007 require the Chair to keep a comprehensive record of the Inquiry. That means we must, at the end of the Inquiry, transmit certain records we hold, including personal, special category, and criminal offence data, to the Keeper of the Records of Scotland.

## **The lawful basis for processing personal data**

We process personal data because, as a public inquiry established under statute, we require to do so. We process personal data lawfully in compliance with the General Data Protection Regulation (GDPR) and all other UK data protection legislation.

Our lawful basis, as defined by the GDPR, for the majority of personal data we process, is that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller (Article 6(1)(e) UK GDPR). In this case that is the work which SCAI is required to do to fulfil its [Terms of Reference](#).

In relation to some other data we process, for example data protection requests from individuals, the lawful basis for processing your personal data is that it is necessary to comply with a legal obligation placed on us as the data controller (Article 6(1)(c) UK GDPR).

Under data protection laws, the processing we carry out must be necessary for the performance of a task in the public interest or in the exercise of official authority vested in the Chair of the Inquiry. In our case, all that we do is for the benefit of the public, SCAI having been established because the Scottish Ministers were satisfied it was appropriate to do so, given public concerns about the long-term and continuing abuse of children in residential care in Scotland or whose care was arranged in Scotland, and the need to seek recommendations for the protection of children in care in the future.

Complying with our legal obligation means we process your personal data because it is necessary for us to comply with the law that applies to us. In our case our legal obligations as a public inquiry are set out in the Inquiries Act 2005 and the Inquiries (Scotland) Rules 2007. The Inquiries Act empowers a government minister to set up a public inquiry; it sets out what we, as a public inquiry, must do and what we have the power to do. The Inquiries Rules make further detailed provisions that we must follow.

We also process personal data in pursuit of our legitimate interests, meaning that we carry out necessary processing for the purpose of our interests in fully carrying out our investigations, in creating a comprehensive public record of the work of the Inquiry

including of the nature and extent of abuse of children in care in Scotland, in writing findings and reports, in issuing findings and reports and in deciding on and drafting appropriate recommendations.

We rely on these bases for processing only when we believe our interests are not overridden by your fundamental rights and freedoms.

### **The lawful basis for processing sensitive personal data**

Sensitive personal data (also known as special category data) is personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health, or data concerning a natural person's sex life or sexual orientation.

The legal basis for processing any sensitive personal data, or data about criminal convictions, where we receive it, is that it is necessary for reasons of substantial public interest for the exercise of a function conferred on a person by an enactment, or the exercise of a function of a Minister of the Crown (para 6, schedule 1, Data Protection Act 2018). The function is the work SCAI requires to do to fulfil its [Terms of Reference](#).

### **Your rights in respect of your personal data**

You have the right to request:

- access to the personal data we hold about you
- that incorrect information we hold about you be corrected
- that we stop or limit the processing of data we hold about you
- that we erase the information we hold about you.

Your rights may be subject to exemptions or limitations. Requests are dealt with on a case-by-case basis.

In all cases we will consider your request very carefully. In some cases, if we consider that your information falls within one of the exemptions set down in the Data Protection Act 2018, we may have to decline your request.

### **Contact and complaints**

If you wish to contact us about the terms of this privacy notice, please write to [SCAIdataprotection@childabuseinquiry.scot](mailto:SCAIdataprotection@childabuseinquiry.scot)

If you wish to make a complaint about how SCAI has handled your personal data, in the first instance please contact [SCAIdataprotection@childabuseinquiry.scot](mailto:SCAIdataprotection@childabuseinquiry.scot)

If you are unhappy with the outcome of discussions with us you are entitled to contact the Information Commissioner's Office online at [Make a complaint | ICO](#), by calling their helpline on **0303 123 1113**, or by writing to them at:

UK Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF