

Briefing 2: Scottish Child Abuse Inquiry

November 2016

On 22nd November 2016 Social Work Scotland met with Felicity Cullen, Deputy Solicitor, and Neil MacFarlane, Document Manager, from the Scottish Child Abuse Inquiry Team. Following the Social Work Scotland seminar on 29th September 2016, the Inquiry Team had been presented with the pre brief and feedback from the session and had agreed to meet to answer as many questions as they could at this time.

General progress of the inquiry

The Witness Support Team within the Inquiry have been undertaking sessions across the UK to take statements from survivors where there was a priority need for example due to end of life care. As they progress to receiving statements from survivors and others more generally it is anticipated that the Witness Support Team will grow. The Inquiry Team are anticipating that there will be a preliminary hearing in the New Year which will develop further the arrangements for future hearings. It is possible that sessions take place on a case study or thematic basis such as a focus on a particular institution or perpetrator depending on evidence.

The Inquiry Team will be reviewing information from previous Inquiries, literature reviews etc and has also commissioned some further research. A media campaign is likely to follow the preliminary hearing although the exact format of any campaign is yet to be determined.

Requests for files

The Inquiry Team have clarified that they are not anticipating requiring to have in place a Memorandum of Understanding (MOU) for all organisations from whom they request documents as it is their view that the statutory powers and protocols in place are sufficient. They note that there are one or two exceptions to this, most notably Police Scotland where they will require to have in place an MOU because of the two way transfer of information due to the potential for live investigations. For all others, the Inquiry Team are of the view that, a request [under section 21 of the Inquiries Act 2005](#) would legally enable organisations to comply with requests.

The Inquiry Team note that they will begin to request documents in the New Year. They will endeavour to keep requests as focussed as possible but will request (and return) full files rather than extracts. This is to minimise the burden on the organisation and reduce the risk of parts of files going missing. It is the Inquiry Team's intention to keep records for only as long as it takes to produce a scanned copy and then return documents rather than retaining them for the duration of the Inquiry. They have in place two contracts for secure transfer and document processing. Requests will be for unredacted documents, with the Inquiry team upon receipt becoming the data controller responsible for redaction of records.

Requests for policy documents and committee reports

Beyond request for case files, the Inquiry Team have indicated that they may also seek policies and procedures and council and/or committee papers which provide information as to how services were managed. The Inquiry is interested in a systemic view rather than a focus on individuals and

accordingly they will be interested to understand for example management/ decision making and how if there were any Inquiries or other reviews, how recommendations were taken forward and implemented etc.

Where an organisation is unable to provide records which have been requested, the Inquiry Team will be looking for a clear audit trail. Organisations will be expected to articulate why they do not have the requested document. It will be important on this basis for organisations to ensure that they collate information regarding retention schedules dating as far back as possible.

Previous inquiries

The Inquiry team were clear that they will draw on the findings of previous reviews and inquiries, but would not be looking to re-open inquiries unless there was sufficient evidence that things had been missed.

Giving evidence

The Inquiry Team are currently developing the procedures for hearings and support to witnesses. The Witness Support Team will provide a support service to all of those persons called to give evidence to the Inquiry. The Inquiry Team are anticipating that for the vast majority of people called to give evidence, there is likely to have been significant engagement with the Witness Support Team before issuing any notice. Support will include preparation for attending the hearing and support on the day if required. It isn't clear at this time whether this will include orientation to the hearing venue. There are no specific arrangements in place at this time for any particular groups of people giving evidence although it is noted that anyone can apply to the Chair to give evidence in private.

The Inquiry Team have noted that questioning of any witnesses will be chiefly undertaken by the Inquiry counsel, although the Chair may on occasion give permission for other Core Participants to ask questions which will be routed through the chair. Any witness who feels that they require legal representation and cannot pay for this can apply to the Inquiry for funding. Any witness can request to give evidence in a way that protects their identity.

The Inquiry team haven't yet determined how expert witness testimony will be taken, although it was noted that there was some success in the Australian model in using a round table approach for this particular aspect of the process.

The Inquiry team are prepared to go to witnesses where witnesses cannot come to the Inquiry including prisons, mental health units, secure units, hospitals, care homes etc.

Core participant status

To date there have been two survivor organisations who have been granted Core Participant status. The Inquiry Team are anticipating that following the preliminary hearing, there will likely be further requests from organisations seeking Core Participant status. The Inquiry Team noted that requests could also be made to become Core Participants for only part of the Inquiry.

Publication

The Inquiry Team note that they have undertaken not to publish any information which would identify survivors unless they have given their permission to do so. This information will be redacted from witness statements, reports etc.

The Inquiry has not yet decided on their publication framework, although it is possible that they undertake interim reporting.

Media campaign

The Scottish Child Abuse Inquiry will begin a media campaign to increase awareness of the Inquiry and to give information about how to contact and participate in the inquiry. Social Work Scotland will be given advance notice of this as will other key organisations.

Next steps

As this is an evolving process, the Inquiry Team have agreed to a further invitation to attend a CSWO meeting in 2017. The Inquiry Team have asked Social Work Scotland to consider whether there are particular people who would be well placed to provide expert witness testimony.