

Anne MacDonald

I would like to make the following submission for the above Bill which I welcome for survivors who have waited for years for Redress but not in its present form.

The principal issue I have is the Waiver clause. This removes the right of survivors to pursue civil actions in the future if they decide to access the Redress Scheme. I know some survivors may wish to access the Redress Scheme and accept this clause. However as many are in financial positions that are uncertain, some may understandably concede that this is a means to hopefully, if accepted, provide some financial help more so at a time when COVID 19 is having a financial impact like no other.

I believe this is a removal of fundamental rights of survivors to have choice and agency. Survivors have fought for their right to be heard and believed for decades and this effectively removes their rights as citizens of Scotland to access justice and silences them once again.

The Limitation (Childhood Abuse) (Scotland) Act was passed into law in 2017 removing a barrier preventing child abuse survivors accessing civil justice. The Waiver contradicts the intention of this Act and as survivors campaigned for years for this opportunity it is difficult to reconcile one Act potentially cancelling out the other.

Survivors know that this route to justice is one that does not always result in success; however it is their fundamental right to be free to do so if they wish. When they have been successful the sums awarded are much higher than the scales in the Redress Scheme. Two Court Actions by survivors from St Margaret's Children's Homes were awarded £75,000 and £150,000 respectively in 2005/6. Many survivors have intimated to me that they feel as if this Waiver is a 'gagging order' and the government have put it in place to protect the institutions who failed them as children.

Therefore on all of these points the Waiver should be removed. On a professional level and as someone who has worked in the field of child abuse and child sexual abuse for over thirty years I find this inclusion exploits the right of self determination for survivors whose lives have been controlled by their abusers, the institutions that denied the abuse had happened, various governments failures to address historical abuse and a society who looked the other way.

My other issue is the lack of trauma awareness in the composition and content of the Bill document. Considering how much government have funded in trauma awareness training across Scotland and how hard we have endeavoured through the years to reach a shared understanding of language, tone and communication to a wide and varied audience of survivors, many who had poor educational opportunities. This document has a varied tone of adversarial, condescension and density.

I realise that such documents have to adhere to certain legal terminology language and composition but in comparison to the Irish Redress and Recovery of 2002 it does not bear comparison.

Other:

The scale of redress payments should be higher. Compensation of ten thousand pounds in today's economy and for having endured horrific abuse and life chances is an extremely low sum. Fife Council paid out £370,000 in 2005 to survivors of abuse in St Margaret's Children's Home in Elie.

In providing evidence of abuse it should be understood that one abusive act can be as traumatising as several incidences. If the Redress Scheme insists otherwise there is a hierarchy of abuse which further diminishes survivors abuse experiences and stigmatises them.

Many survivors will find it impossible to provide intimate details of their abuse as they have never spoken about certain aspects and events with anyone.

Recognition that some survivors have gone on to commit criminal offences as a result of their childhood experiences. There is no mention of Adverse Childhood Experiences research and findings.

Psychological counselling, support and advocacy have to underpin this Scheme. Future Pathways is not the appropriate agency to provide this.

I am happy to provide further detail and add to the submission if required.

Anne Macdonald

Background relevant to Historic Abuse

Director Kingdom Abuse Survivors Project, Fife Investigation into Historic Abuse and Inquiry

Scottish Government Professional Adviser, SurvivorScotland Strategy

Scottish Government Professional Adviser, Care & Justice developing the In Care Survivor Service Scotland Project

Member of the Advisory Panel, Independent Inquiry into Abuse at Kerelaw Residential School and Secure Unit

Scottish Government Professional Adviser, Time to be Heard

Scottish Government Professional Adviser, The National Confidential Forum

Member of the Advisory Panel National Records of Scotland, leading to the Public Records (Scotland) Act

Co Convener, Scottish Parliament Cross Party Group on Adult Survivors of Childhood Sexual Abuse