

Wellbeing Scotland

Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill

Wellbeing Scotland submission

Consultation and Evidence

Wellbeing Scotland have consulted clients through a survey, Zoom sessions, email consultation and groups. Over the last three days survivors have started a petition against the waiver. Signatures have grown steadily with 347 signatures so far. Responses have been overwhelmingly opposed to the waiver in particular but in addition they are opposed to a scale of payments. They are particularly opposed to a panel making decisions due to the risk of re-traumatisation and the need to tell a panel about abuse they have not been able to communicate to anyone.

Wellbeing Scotland have delivered the In Care Survivors Service Scotland since 2008. We have worked with around 3,000 people who were abused in care. Throughout that time much of our work has involved campaigning for justice for survivors as they have asked for our support. We have been involved in consultations on redress since the beginning of the process. We held large client events face to face in the early stages with around 90 attendees each time.

Waiver

The strength of feeling among Wellbeing Scotland survivors is extremely high. Many responded to our recent survey that they did not participate in the previous consultation as they found it difficult to understand. They feel there should have been other ways to gather their views that were more accessible. They feel that the waiver has betrayed them and negated the positive progress that has been achieved.

As we have highlighted survivors would feel compelled to accept a payment due to financial challenges and then face intense regret that they have given up their right to civil action. As Simon Collins highlighted, they may accept redress as their case looks unlikely to succeed but some years later more evidence could be found to lead to a successful civil case and the chance would be lost. This could be devastating for survivors.

I have been contacted by a number of survivors who are becoming very distressed and not sure if they should continue to pursue their civil cases, while they are clear that it is the civil route they want.

Survivors have received all Information notes from the Scottish Government and therefore have had all information relating to the scheme. Information Note 8 refers to misleading information survivors have received. Survivors have a clear understanding of the scheme.

I am aware that the Scottish Government have responded to the Stage 1 report by saying that the waiver is needed because survivors want a scheme into which the

institutions contribute and I am aware that other organisations agree with this indeed the vast majority of respondents to the SG consultation also agreed <https://www.gov.scot/publications/financial-redress-historical-child-abuse-care-analysis-consultation-responses/pages/12#Table11.1>.

However, there are 3 fundamental issues that the Scottish Government are seeking to brush over -

1. The SG consultation did not suggest or even hint that there was any correlation between Q 35 [contribution] and Q 26 [waiver] let alone (as they seem to be suggesting) they are inextricably linked. I know from the survivors that I have spoken to if they were given the straight choice between a contribution or a waiver there would only be one answer. Survivors feel that by winning civil cases they will be receiving the justice against those organisations who abused them.
2. They have not explained why the waiver is the only way of securing a contribution. The insurers evidence at stage 1 was incomprehensible. It is far from clear that they will agree to contributions. It is confusing for many survivors that the Scottish Government continue to fund organisations responsible for abuse while they continue to resist compensating survivors. A way of securing a contribution could be by making future funding dependent on doing the right thing.
3. There is a far better, fairer and more appropriate way of ensuring the institutions contribute - the CICA style clawback. It's interesting that the Scottish Government did not even consider that in their response to the stage 1 report.

Payment Scale

Survivors have been very clear that a flat payment would be much better than any tiered system.

1. It will be far less adversarial and re-traumatising than the proposed tiers or proposed change to the tiered system.
2. The majority of our survivors did not want survivors to be treated differently from one another or for a perception that one person's experience was worse. In my work survivors often struggle a great deal with their abuse being minimised in comparison with others.
3. Survivors do not want to face a panel. By not having a panel time and cost could be reduced.
4. Survivors do not want to disclose details of their abuse to the panel.

Advance Payments

We fully support the submission of Peter Paton with the request to reduce the age level in the Advance Payment Scheme while waiting for the full scheme to be implemented.

Qualifying Date

The qualifying date should be changed to match the Scottish Child Abuse Inquiry.

Support

In terms of support for survivors the Government have referred to the support from the SCAI. A large proportion of survivors giving evidence to the Inquiry found the ability to have their counsellor with them throughout the process essential. The SCAI make it clear on their website that it is acceptable to bring a support person.

We are very grateful for the Committee's consideration of survivor views and needs. Survivors feel the Committee have listened to their concerns and they are appealing that that understanding will lead to changes to the Bill.

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