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Dear Margaret,

Thank you for your letter of 3 May 2017. I am grateful for the opportunity to clarify the issues you raise.

Most importantly, there is nothing in the proposed exception which prevents a school, boarding school, local authority or other institution from apologising to survivors of childhood sexual abuse. What the exception does is to allow listed regulators, including the General Teaching Council for Scotland ("GTCS") and the Scottish Social Services Council ("SSSC"), to consider all the relevant facts and evidence when an individual teacher's or social worker's performance has been questioned, including the risk they pose to the public.

Like you, I believe the protection of children and vulnerable adults is paramount. For the safety of children, or vulnerable adults in the care of social workers, we need to ensure that assessments of whether someone is suitable to continue teaching or working as a social worker are carried out with all the relevant evidence available. Both the GTCS and the SSSC have made clear to us that the Apologies (Scotland) Act 2016 could compromise their ability to protect the public.

In a scenario where an individual teacher or social worker comes forward and apologises for past sexual abuse of a child, I would be alarmed if questions were not asked about their suitability to continue to practice their profession and the GTCS or the SSSC were unable to have access to all the relevant evidence in the context of any professional regulatory proceedings.

Although in such scenario a teacher or social worker may be considering the consequences of their apology in terms of a fitness to practice proceeding, they would of course also have to consider the prospect of a criminal investigation.

As I am sure you will recall, the recommendation to consider the merits of an apology law was put forward by the Scottish Human Rights Commission based on their InterAction process, which involved survivors of historic child abuse, representatives from the Scottish Government, local authorities, religious bodies, and care workers. One of the key conclusions from this process was that organisations would like to apologise, but concerns

about civil litigation and insurance were considered obstacles.<sup>1</sup> The Apologies (Scotland) Act 2016 is crucial in addressing these concerns. And as I said above, there is nothing in the proposed exception that changes that.

As we have discussed, I do not agree that it is illogical to include the proceedings of the GTCS and the SSSC within the exception. As is the case in the health professionals' regulatory proceedings, apologies can be used as evidence to establish facts and assess the risk that a teacher or social worker poses to the public. Without an exception, the GTCS and the SSSC would not be able to consider all the relevant evidence and as a result, their ability to protect the public, including children and vulnerable adults, would be restricted. The rationale for excepting the professional regulatory proceedings of these two organisations is the same as the rationale for excepting the professional regulatory proceedings of the health professionals' regulatory bodies.



**Annabelle Ewing**

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<sup>1</sup> Summary of InterAction Process and Report of Interaction Event on 20 June 2013  
[http://shrcinteraction.org/Portals/23/Interaction\\_Event\\_June%202013.pdf](http://shrcinteraction.org/Portals/23/Interaction_Event_June%202013.pdf)