

## **Victims and Witnesses (Scotland) Bill**

### **Care Inspectorate**

#### **Introduction**

The Care Inspectorate welcomes the opportunity to submit evidence to inform Stage 1 consideration of the Victims and Witnesses (Scotland) Bill and supports the proposal to establish a National Confidential Forum. The Care Inspectorate is responsible for providing independent assurance about a wide range of social care and social work services in Scotland. We believe that people should experience a better quality of life from accessible, excellent services which are designed and delivered to reflect their individual needs and promote their rights.

Care Inspectorate staff are able to contribute to this call for evidence on the basis of relevant experience in front-line practice, management of services and enquiries.

#### **The functions and powers of the National Confidential Forum (as set out in the Bill)**

We agree with the purpose of a National Confidential Forum. The pilot has clearly borne out the hypothesis that giving adults, who had been in institutional care as children, the chance to describe their experiences is of benefit to them. Of particular note is the finding that taking part in the forum led to improvements in their health and wellbeing.

The confidential forum will also provide important information about the past experiences of adults placed in institutional care as children. Hearing directly from adults who have spent time in institutional settings will provide a rich source of information which will inform improvements in the future.

We are pleased that eligibility to provide testimony to the forum will be extended to all people who were previously in residential care or health settings. We believe that this will convey an important message that all experiences, including positive testimonies, will be heard. The pilot has clearly demonstrated the benefits for survivors of abuse. Enquiries have found that people who consider their past experience to be positive can feel that their histories are being questioned or diminished by the subsequent discovery of abuse. The proposals allow all those who wish to relate their experiences to do so.

We believe that the eligibility criteria should be broad enough to ensure that people who have been cared for in the following institutions are able to provide testimony:

- residential schools, including hostels and boarding accommodation
- residential educational provision for children with a disability
- care homes for children

- institutions providing short-term or regular respite care
- residential health care for medical (including life-limiting conditions) or mental health needs
- secure accommodation

We note the intention to exclude eligibility to participate in the forum to people who receive a service in a private dwelling. As foster care may not be considered an institutional care setting this could exclude people who have been placed in foster care as children. The provision of alternative family care through foster carers is organised through bodies which may meet the definition set out in Part 3 section 7 (4) of the Bill but the care itself takes place in a private dwelling. The Care Inspectorate would suggest that consideration should be given to extending inclusion in the forum to adults who have been placed in foster care as children. If people who wish to give testimony about experiences in foster care are to be excluded, we would suggest that the forum makes this clear to those who make contact and signposts people to where they can go to get support and advice.

Consideration should also be given to extending the definition of 'eligible' to include those who are 16 years and over, given the specific legal status of such persons in Scotland.

### **Status of the National Confidential Forum and its independence**

We agree that the forum should operate independently from government. This communicates independence and impartiality, both of which are likely to be vital to making sure all those people who want to take part feel confident to do so.

We note the proposal to set up the forum under the auspices of the Mental Welfare Commission. We consider the Commission to have the necessary independence and professional expertise to host this forum. We assume that the Commission will require additional resources for this new remit. We would however recommend that the forum should have an identity and purpose which is quite distinct from the wider role of the Commission. Many of those who come forward will have experienced emotional distress. We do not anticipate however that all people wishing to have their testimony heard will necessarily have experienced mental ill health or have a learning disability. Some people may be discouraged from taking part if the quite separate function of the forum is not made explicit.

### **Support for participants before, during and after their input**

The confidential nature of the forum should assist participants to feel safe in taking part. The process should be the same for all participants, while taking account of their individual needs. It is not so obvious what the benefits would be for those who had good experiences but it would communicate a sense of equality and that all histories were respected and heard. Some adults will have had mixed experiences and this may make it easier for them to come forward and be heard. Some participants may find they are only able to make

sense of their experiences in the process of being heard. To have the same process for all participants will encourage many more people to come forward. This should enable more people to benefit from the listening process and more information to be gained which will inform improvements in institutional care.

It is essential that support is provided in preparation for the hearing, throughout the hearing, directly afterwards (for example, in signposting participants to advocacy and advice services) and also in the longer term. A good range of high quality and accessible support services should be available to the forum in order to allow some degree of choice to those taking part. The forum should have information readily to hand of what services are available throughout the country.

### **Other relevant aspects of the National Confidential Forum**

If the safeguards already mentioned above are put in place there should not be any barriers which prevent people who are eligible to take part in the forum from participating.

**Annette Bruton**  
**Chief Executive**  
**Care Inspectorate**

28 March 2013