

Victims and Witnesses Bill

Barnardo's Scotland

Barnardo's Scotland supports and welcomes the introduction of the Victims and Witnesses Bill to the Scottish Parliament and appreciates the opportunity to respond to the Stage One consultation.

This response refers to sections 25-26 on the National Confidential Forum. We have developed a separate response for sections 1-25, which we have submitted to the Justice Committee.

In principle Barnardo's Scotland supports the creation of a National Confidential Forum.

This is an extremely sensitive area and it is crucial that the issues associated with the NCF are debated in an appropriate tone of understanding.

The functions and powers of the NCF (as set out in the Bill);

Barnardo's Scotland supports the establishment of the NCF and we agree with the functions that have been listed on the face of the Bill. We believe that for some survivors the Forum as established will be helpful and therapeutic.

However, we are concerned that the mandate and remit of the Forum does not go far enough. There have been calls from the Scottish Human Rights Commission (SHRC) and survivor groups for the Forum to look at and have power for remedies, redress, effective investigations and inquiries, as well as the power to award compensation. Barnardo's Scotland supports these views and agrees with these organisations that the element of accountability is missing from the proposals.

The Scottish Government needs to consider how it will balance the therapeutic model of the NCF with the need for justice by many survivors.

There should be no restriction on the types of institution in which people were placed, with regards to those who can speak to the forum and agree with the extension of the cope of the NCF from the Time To Be Heard (TTBH) pilot. However we also believe that the NCF should include those who have been cared for in foster care. There has been historical abuse within foster care and as such those that have experienced such abuse should be able to participate in the NCF.

We support the position of the SHRC that as well as survivors that some consideration should be given to opening the NCF to others who were indirectly affected, based on proximity and proportionality and to others whose rights may be affected such as former staff.

Status of the NCF – housed as a sub-committee of the Mental Welfare Commission – and its independence;

Barnardo's Scotland agrees with the proposals for the NCF to be housed as a sub-committee of the MWC and for it to be as operationally independent as possible.

Support for participants before, during and after their input

Barnardo's Scotland believes that there needs to be comprehensive support to enable survivors to participate in the forum – whether that is psychological support, alternative means of testifying e.g. video links, welfare, advocacy support or other necessary support. There is a need to protect the wellbeing of those participating in the forum many of whom may still be very vulnerable people. Any support that is offered should also be made available for the long term and not just the short term.

At present there is no accounting for this in the proposed legislation and nothing set out in the accompanying policy memorandum to suggest that such support will be available.

Any other aspects of the NCF

Barnardo's Scotland supports the SHRC framework and all its recommendations and believes that the Scottish Government needs to consider an approach that satisfies all those recommendations.

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