

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

### **Who Cares? Scotland**

Who Cares? Scotland welcomes the creation of a National Confidential Forum, which will hear the voices and acknowledge the experiences of adults placed in institutional care as children. Who Cares? Scotland works with children and young people up to the age of 25 years with experience of care. In preparation for formulating our response we have worked with a focus group of young people – all care leavers. Their experiences and perspectives have informed our organisational response.

#### **Functions and Powers of National Confidential Forum**

As a children's rights organisation, we believe there is real value in there being a protected space where those placed in institutional care as children are able to recount their experiences. We were not clear from the bill if institutional care included foster care. Our recommendation would be that it should, as the quality of care in such settings can be as variable as in other placement types, and is likely to offer fewer options for "telling".

Overall the functions and powers of the National Confidential Forum seem to be well balanced, although our focus group felt that for them, there was a clear distinction between what experiences should be passed on to the police in terms of abuse, and what they felt they could say to the NCF that would be useful in shaping future practice and policy. We have included 3 short case studies as examples of possible testimony which might be useful in this context.

As most of the young people we work with have recent care experience, and are aged 25 or younger, it is likely that where historical abuse was being described to us, that we would signpost young people in the first instance to police or social work services. This would definitely be the case should young people be making allegations against existing workers / agencies, as we would be concerned that there may be live child protection issues to be managed.

It was felt that there was a need for clarity – prior to testimony being provided by participants - on when, and what type of information would be passed on to police. It was felt that lack of clarity in this area could be a barrier for the participation of some, or a shock for others if information was passed on in a way that they felt unprepared for.

#### **Status of NCF**

Who Cares? Scotland is satisfied with the independence of the NCF, housed as a sub-committee of the Mental Welfare Commission.

## **Support for Participants**

Appropriate support – which may vary from person to person – will be crucial for participants before, during and after giving testimony.

**Before.** Participants should have access to a suitably equipped individual (independent advocate or other type of independent supporter) who fully understands the process of giving testimony and also the potential implications of giving testimony. This may include legal remedies available to NCF and the subsequent implications for participants; it may also include an understanding and an ability to prepare the participant for any social, emotional and health impact that may come from providing testimony. Supporters should have the knowledge and experience to offer holistic, legal, practical and emotional support throughout the process. (In addition the participant should be able to have a family member or friend alongside them for emotional support as well as a more independent supporter if wanted.

**During.** As above, participants should be able to be supported by whoever they choose, however they should be able to receive consistency of support i.e to have the same person with them at all stages of the process. It is often very difficult for people to speak about their experiences, and there shouldn't have to be any repetition of their story unless they want to tell it. Also need to think about where people will give testimony, and how they will get there and then back home. Don't want really distressed people having to get themselves home via public transport.

**After.** Our focus group of young people were keen to know if participants would receive a written copy of their testimony once given. Also, to know if there would be any follow up information forwarded to participants about how their information has been used?

## **Case studies: to evidence need**

As mentioned earlier, young people wanted to give some direct examples of situations they had encountered during their time in residential care, and which they felt may be able to improve future policy and practice.

### **Situation 1**

#### ***Aged 11***

'I was placed in a 9 bedded residential house, along with 10 other young people. That same day a number of young people displayed challenging behaviour towards residential workers, being verbally abusive towards them. Behaviour escalated during the day with young people becoming increasingly verbally abusive. A young person called a member of staff a "**f\*\*\*\*\*g cow**". After being called names several times the member of staff replied

***"no wonder your mum is dead, you're a little ar\*\*\*ole"***.

The young person lost control of his behaviour and began damaging the worker's car, in a flood of tears and rage, he didn't stop until the police and fire service came. As a result of this incident the young person was separated from his younger sister who was also in the residential house. To my knowledge the young person ended up in secure care and I don't know where he went after that. The young person had only been accommodated in a residential house because his mum had died and no other family members were able to look after him or his younger sister. Also they were waiting for a foster placement to become available.

No one ever asked the young people if they knew why the happened that day, although all the kids were talking about what was said. The staff member moved shortly after and the residential house closed down 6 months later'.

## **Situation 2**

### ***Aged 12.***

'There were only two members of staff on shift that night. One was new and the other had been there for a number of years. A young person refused to go their room. The experienced member of staff said

***"If you don't go, I will take you there".***

The young person refused, and it resulted in the member of staff grabbing him by the hair and physically taking him to his room. This was seen by other young people and the new member of staff. When it was raised by a young person to the new staff member, she replied

***"I know what happened and it was wrong, but what can I do?"***

To my knowledge both workers still practice in residential childcare and both are now seniors.

## **Situation 3**

### ***Aged 13.***

Residential homes usually consist of a hierarchy. In this one it was an older girl who was loud, aggressive and violent. She had been making comments about young people's families saying that they were

***"junkies, alkys and smack heads".***

When a young person raised this with a member of staff the worker said

***"next time she does that and I am on shift just leather her"***

implying that the young person should assault the older girl. The young person asked ***"what will happen to me?"*** the staff member replied ***"you will be ok, the police won't get called"*** so the next time the girl said the things

and the worker was on, the young person did as he had been told and physically assaulted her. The girl said that she wanted to press charges but none were ever pressed. Subsequently the girl made allegations against that same member of staff who instructed the other young person to assault them, this resulted in an investigation to which I am not aware of the outcome, however, the girl was eventually moved.

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