

Brian Whittle MSP submission of 28 March 2024

PE1933/S: Allow the Fornethy Survivors to access Scotland's redress scheme

I write in support of Petition PE1933: Allow the Fornethy Survivors to access Scotland's redress scheme.

I would have wished to attend personally, however, my own committee is sitting at the same time.

I was involved in many debates and discussions with the then Cabinet Secretary, John Swinney, with regards to the Redress Scheme, both as a Shadow Health Minister and representing a constituent who was sexually abused while at school by a teacher. Although I would thank Mr Swinney for his willingness to engage and discuss the Redress Scheme as the Bill passed through Parliament, I was disappointed in the narrowness of the criteria with which it could be applied. Specifically, Mr Swinney maintained that the Redress Scheme could only apply to those who had suffered abuse while the state had parental responsibilities over the abused, the definition of which he said would only include those children in residential care. However, in the Education Bill it states that a school/teacher are ***In Loco Parentis (in place of the parent)***, the definition of which is '***the legal responsibility of a person or an organisation such as a school or nursery to partly take on the role and responsibilities of a parent***'. Therefore, anyone who is formally entrusted with the care of a child is expected to act in loco parentis.

I would strongly advocate to the Committee that the Survivors of Fornethy Residential School Abuse would fall within this definition. In fact, I fail to see how any other conclusion could be reached.

Convener, the Redress Scheme is without doubt a significant step forward for those who have suffered historical abuse, however, it has fallen way short of the abuse it could and should be addressing. By restricting the parameters of the Bill, the Scottish Government have potentially fallen foul of UNCRC law by excluding similar abuse victims (as a similar scheme in Ireland has recognised). I can only surmise from my many conversations with the Cabinet Secretary and his inability to

satisfactorily address these shortcomings in the Bill that it was the potential cost of including these cases that ultimately was prohibitive.

Convener, all these historical and horrendous crimes endured by abuse victims while in the care of the state must fall within the compass of the Redress Scheme. Abuse is abuse as I am sure we all agree.

I would therefore ask that the Committee vote in favour of the Fornethy Survivors and exert the strongest pressure on the Scottish Government to include them within the parameters of the Redress Scheme and at last give some kind of recognition and comfort to the Fornethy Survivors.