

Briefing for the Citizen Participation and Public Petitions Committee on petition PE1905: Public Inquiry into the response of religious organisations to allegations of child sexual abuse since 1950, lodged by Angela Rosina Cousins on behalf of UK XJW's Support

The petitioner calls on the Scottish Parliament to urge the Scottish Government to order a public inquiry into the actions taken by religious organisations in response to child sexual abuse allegations since 1950.

The petitioner argues that the scope of the Scottish Child Abuse Inquiry is too narrow as it is only able to investigate the abuse of children in care.

The petitioner also refers to the remit of [the Independent Inquiry into Child Sexual Abuse in England and Wales](#) which has powers to investigate abuse in religious organisations generally.

Background

A public inquiry is an investigation set up by a government Minister to investigate issues of public concern. Inquiries generally aim to establish what has happened, why and how it happened and what can be done to prevent it happening again.¹

Statutory public inquiries are governed by the Inquiries Act 2005 (the 2005 Act). It gives Ministers (including Scottish Ministers) the power to set up an inquiry where events have caused or are capable of causing public concern, or there is public concern that particular events may have occurred (section 1). Scottish Ministers can only set up an inquiry when it relates to a Scottish matter (see the 2005 Act, section 28).

¹ [Public inquiries | The Institute for Government](#)

When a public inquiry is set up, the Minister has to specify the inquiry's "terms of reference" - in other words the matters which the inquiry has the powers to investigate (for details see the 2005 Act, section 5).

[The terms of reference for the Scottish Child Abuse Inquiry](#), set up in 2015, are focused on abuse in care, i.e. "the nature and extent abuse of children whilst in care in Scotland" and, "the extent to which institutions and bodies with legal responsibility for the care of children failed in their duty to protect children in care in Scotland."

This covers children in residential care institutions such as children's homes (including those provided by faith-based groups), as well as children in foster care (for details see the terms of reference). However, it does not cover the abuse of children in religious organisations themselves (i.e. not in care settings as defined in the terms of reference).

This is in contrast to [the Independent Inquiry into Child Sexual Abuse](#) (the English child abuse inquiry set up in 2015) whose [terms of reference](#) go beyond children in care to cover the following:

"To consider the extent to which State and non-State institutions have failed in their duty of care to protect children from sexual abuse and exploitation."

The result is that the English child abuse inquiry has powers to investigate abuse in religious organisations. [It has been investigating this issue](#) and, in September 2021, it published a report: "[Child protection in religious organisations and settings Investigation Report](#)". The [press release accompanying this report](#) concluded that:

"Religious organisations play a central and even dominant role in the lives of millions of children in England and Wales. The report highlights the blatant hypocrisy and moral failing of religions purporting to teach right from wrong and yet failing to prevent or respond to child sexual abuse."

Scottish Government Action

The terms of reference for the Scottish Child Abuse Inquiry have been amended on various occasions by the Scottish Government. However, [on 17 November 2016, the then Deputy First Minister, John Swinney, indicated in a statement to Parliament that it was not the Scottish Government's intention to cover non care settings](#) noting that:

“I have to ensure a remit that is deliverable within a reasonable timescale. I have concluded that there is a clear distinction between in-care settings and non-in-care settings. In-care settings are those where institutions and bodies had legal responsibility for the long-term care of children in the place of the parent, with all the legal and moral obligations that that status carries. That is different from the position in non-in-care settings, such as day schools and youth groups, where others had a duty of care on a short-term basis but, crucially, did not replace the role of parents. In too many cases, terrible crimes were committed in those settings, too. Criminal behaviour should be referred to the police and I hope that, where the evidence exists, it will be energetically pursued through the criminal courts.”

Scottish Parliament Action

- [Limitation \(Child Abuse\) \(Scotland\) Act 2017](#) – this removed the 3 year limitation period (also known as “time bar”) that applies to personal injury cases brought by people who sustained injuries as a child.
- [The Redress for Survivors \(Historical Child Abuse in Care\) \(Scotland\) Act 2021](#) – this sets up a scheme which allows survivors of historical child abuse in care in Scotland to apply for financial redress payments (up to £100,000), as well as access to apology and support.

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4/10/2021

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