

Briefing for the Citizen Participation and Public Petitions Committee on petition [PE1979](#): Establish an independent inquiry and an independent national whistleblowing officer to investigate concerns about the alleged mishandling of child safeguarding enquiries by public bodies, lodged by Neil McLennan, Christine Scott, Alison Dickie, and Bill Cook

Brief overview of issues raised by the petition

The petition is calling on the Scottish Government to launch an independent inquiry to examine:

- concerns that allegations about child protection, child abuse, safeguarding and children's rights have been mishandled by a series of public bodies; and
- childcare settings not covered by the remit of the Scottish Child Abuse Inquiry, including state schools and regulated children's activities.

The petition is also calling for the establishment of an independent national whistleblowing officer for Education and Children's Services in Scotland.

The #Unfeartie pledge

In 2017, to mark 21 years of the Children's Parliament, the [#Unfeartie pledge](#) was launched. The Children's Parliament website states that:

"Unfearties are individuals who are courageous in discussing children's issues, are making a difference in children's lives, and who are willing to speak up for, and stand alongside, children."

The name 'Unfeartie' is based on Edwin Morgan's poem 'Open the Doors' written for the opening of the Scottish Parliament 2004 which included the line 'A nest of fearties is what they do not want'.

At least 1000 people have signed the pledge to date. The petitioners state in their petition that they support this campaign and take the principles of it very seriously.

Alleged mishandling of child safeguarding concerns by public bodies

The petition does not set out the examples of public body failings. Possible examples may be:

- The conduct of a social worker with City of Edinburgh Council, and the way in which historical complaints about him were dealt with at the time they were made. An inquiry into this was undertaken by Susanne Tanner KC whose [report](#) was concluded in October 2021.
- Scottish Borders Council response to allegations of abuse by a teacher of children with additional support needs. An [inquiry by Andrew G Webster KC was concluded in February 2022](#).

General Teaching Council for Scotland (GTCS)

The GTCS is the professional body for teachers in Scotland.

The [GTCS wrote to the Education, Children and Young People Committee in March 2022](#) to set out its role in child protection. This said—

“This role is to regulate the individual teachers who teach children, young people and adult learners. We do this by keeping a register of teachers and setting and regulating the standards of conduct and competence expected of our registrants. ... Employers can take action that GTC Scotland cannot. For instance, they can immediately remove an individual from a context. It is these partners who we refer to as on the frontline of child protection.”

Scottish Child Abuse Inquiry

Set up in October 2015, the Scottish Child Abuse Inquiry is looking into the nature and extent of the abuse of children in care in Scotland. It is considering 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 as well as determining if any changes to practice policy or legislation are needed to prevent abuse happening to children in care in the future.

The terms of reference of the inquiry are specific to children in care and do not include abuse of children in any other settings, including schools or regulated children’s activities.

The petitioners are calling for a wider inquiry into child safeguarding concerns which have been mishandled, one that includes settings such as schools and regulated children’s activities.

In November 2016 Deputy First Minister and Cabinet Secretary for Education and Skills, John Swinney MSP, provided an update to the Scottish Parliament on the Scottish Child Abuse Inquiry. He stated that:

“I have to ensure a remit that is deliverable within a reasonable timescale. I have concluded 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 of the legal and moral obligations that status carries. That is different to 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 were not replacing 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, where the evidence exists, this will be energetically pursued through the criminal courts.

If we set a remit which would in practice take many more years to conclude, we are failing to respond to those survivors of in care abuse who have taken us at our word – in Government and in Parliament – that we will learn from their experience and, by addressing the systematic failures which existed, ensure it can never happen again.”

Whistleblowing

The Employment Rights Act 1996 provides a process by which workers can make what is called a “protected disclosure” while being given legal protection from detrimental treatment by their employer.

In order to qualify, the disclosure must be covered by the legislation. This defines the type of information which can qualify and the process the whistleblower must go through to raise the issue. Disclosures which qualify for protection are defined in section 43B of the Act and include a range of serious wrongdoings such as criminal offences being committed in the workplace.

Further details can be found on [the UK Government’s guide “Whistleblowing for employees”](#).

Scottish Parliament Action

In 2019 the Scottish Parliament received Petition [PE1717: Inquiry into the abuse of children in Scottish state schools](#). This petition noted that the Scottish Child Abuse Inquiry did not include in its scope those who had suffered abuse in other settings including state schools.

The Public Petitions Committee took evidence from the petitioner on [25 April 2019](#) and agreed to write to the Scottish Government and COSLA for additional information. Written submissions were received, however the petitioner withdrew their petition in December 2019, so no further action was taken by the Committee.

In response to the Committee’s request for further information, the Deputy First Minister and Cabinet Secretary for Education and Skills, John Swinney MSP, wrote in May 2019:

“I am conscious that there have been some questions about whether the remit of the Scottish Child Abuse Inquiry (SCAI) could be extended to also include all state schools. I have previously considered whether the SCAI’s remit should be widened to include abuse in other non-residential settings, and concluded in November 2016 that doing so would result in the Inquiry taking many more years to carry out its work. In conclusion I do not consider that a separate inquiry should be considered for those that were abused in state schools.”

Laura Haley, Ned Sharratt & Angus Evans
Researchers

1 November 2022

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

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