

## Consultation Questionnaire

**Q1. Do you agree or disagree with the purpose of a National Confidential Forum?**

Agree, in principle

Q1, Comments

**Yes, we agree in principle**

**Q2. Do you agree or disagree that the Forum should operate independently from Government?**

Agree

Q2, **YES, it should also have a wholly independent legal statutory framework.**

**Q3. Should the Forum be (a) integrated into another public body or (b) be a separate unit within another public body?**

Q3, Comments,

**The National Confidential Forum should operate effectively and wholly independently. Its functions must be separate from any such integration into any public body and must not be constrained or prohibited in carrying out its duties and functions by any such integration. The National Confidential Forum must have separate legal obligations and legal protections within a legal statutory framework separate from any said public body.**

**We would consider appropriate such a public body as the independent Scottish Human Rights Commission as the most appropriate in this instance.**

**(a) be integrated into another public body ?**

**Agree**

**(b) be a separate unit within another public body?**

**Agree**

**Q4. Do you agree or disagree that all adults who were placed in residential care by the State should be eligible to take part in the National Confidential Forum?**

**Agree**

Comments,

**Q4, We agree, The Forum should primarily be for Adult Survivors of Childhood Abuse who were in Scottish Residential Care. Other testimonies including foster care and positive experiences of care may have to be considered. Also submissions by siblings who may wish to represent deceased relatives abused in the past care system. These testimonies may have to consider by the Forum Panel Members. This will be for the Chair and Panel members to decide. We would expect due consideration be given to All who wish to submit a testimony.**

**Q5. Do you agree or disagree that the process should be the same for all participants, regardless of whether they regard themselves as survivors of abuse in residential childcare?**

**Agree in principle**

**Q5, Comments**

**Yes we agree in principle; however the aggregation of testimonies submitted by a cross section of participants from different institutions should be avoided. Testimonies submitted should be attributed to the organisation they actually refer too.**

**We would expect the process to be similar to that of “Time To Be Heard”.**

**To enable the “Rights of all former residents” to be upheld in the processes, testimonies regarding good experiences in care may have to be heard. Other testimonies many have to be taken into account also.**

**Decisions and what format regarding participants access to the National Confidential Forum and which participants are eligible should rest primarily with the Forum Chair and Panel members as in TTBH.**

**There should be an independent review, arbitration and adjudication process where there is a dispute concerning participation in the National Confidential Forum.**

**Q6. Do you agree or disagree that people who were in the following types of residential care should be included:**

- residential schools and children’s homes**

**YES**

- residential educational provision for children with special needs**

**YES**

- long-stay hospital provision for children with acute medical and/or mental health needs**

**YES,**

- secure accommodation**

**YES**

**Q7. What other support do you consider that participants would benefit from before, during and after the Forum?**

**Q7, Comments**

**Independent Rights Advocacy to enable and empower all participants to exercise fully all their "Rights". Psychological and trauma support provided by suitably qualified health professionals.**

**Counselling support services ongoing by ICSSS and other relevant service providers. Relevant support should also be considered for Panel Members and employees.**

**In addition it may be appropriate to offer Police family liaison support and advice for some participants who may require an update concerning their individual cases.**

**Support services should be appropriate to the needs of individual participants and seamless. Companion support is also invaluable for participants.**

**Boundaries need to be clearly defined to participants including that the Panel members will not be offering on going support.**

**Q8. Do you think that the participants should be protected from legal action in connection with their work for the Forum?**

Yes

**Comments,**

**Q8, There should be a clear legal framework and statutory protection to be offered to participants, commissioners and employees. Alleged criminal allegations may have to be passed on to the relevant authorities such as the police and where a Legal duty to do so exists. Other bodies may have to be contacted regarding the safeguarding of children**

**Q9 , Do you there are any barriers that would prevent people who are eligible to take part in the Forum from participating?**

Comments.

**There may be barriers for individuals living outside Scotland and the United Kingdom. Measures should be taken to ensure that the National Confidential Forum processes are widely advertised outside Scotland and accessible to all, regardless of where participants reside. Arrangements should be in place for those participants with learning and physical disabilities including hard of hearing.**

**Q10. Do you wish to add any additional points about the Forum?**

**YES Comments,**

National Confidential Forum and the Legislation associated with should incorporate a range of effective remedies in line with the SHRC framework and recommendations, enabling all victim-survivors to exercise effectively and fully their “Rights” in accessing, redress, justice and remedies including reparation through these processes.

The Scottish Government has a responsibility under Article 3 of the European Convention on Human Rights to investigate allegations of inhuman or degrading treatment or punishment and may also have an obligation to provide financial redress in some circumstances.

Where there is a credible assertion and credible evidence of serious ill treatment, there should be an investigation, that is at least sufficient to determine whether the State was responsible and what lessons can be learnt for the future. A confidential model on its own is not even sufficient to even identify the truth, let alone to compel the production of evidence.

Each past residential care organisation had its own history, culture, management structure and care systems. Individual organisations and entities should be investigated separately to determine the extent and depth of such abuse alleged or committed. The aggregation of victim-survivors testimonies from various organisations should be avoided and such testimonies should be attributed to the said organization and reported separately within any final report.

Redaction and aggregation of testimonies from a range of different victim-survivors from various past residential care homes is also a major concern for many victim-survivors as demonstrated in past processes including Ireland and TTBH were many victim, survivors went public after the conclusion of such confidential models.

We also see no legitimate reason why previous convictions of individuals convicted of abusing children in their past care cannot be publicised in any future National Confidential Forum report.

This National Confidential Forum process on its own will not enable participants to exercise fully all their “Rights”.

We remind all the parties of the serious issues raised in the Kaufman, report Canada 2002. An important evaluation of one process in Canada—the Kaufman report—outlines exactly why that process was wrong for everyone who was involved. Lessons can be learned from processes that go wrong as well as from those that have been successful.

# Equality Impact Assessment

## Introduction

The public sector duties require the Scottish Government pay “due regard” to the need to:

- Eliminate discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010;
- Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- Foster good relations between people who share a relevant protected characteristic.

These three requirements apply across the “protected characteristics” of age; disability; gender reassignment; pregnancy and maternity; race; religion and belief; sex and sexual orientation.

In effect, this means that equality considerations are integrated into all the functions and policies of Scottish Government Directorates and Agencies.

A key part of those duties is to impact assess all our policies to ensure that we do not inadvertently create a negative impact for equality groups and also that we actively seek the opportunity to promote equality of opportunity and to foster good relations.

## The Aim of the National Confidential Forum

The aim of the National Confidential Forum is to give adults who spent time in residential care as children the opportunity to talk about their experiences.

In this section of the consultation questions we are particularly interested in finding out your views on whether the National Confidential Forum meets the needs of the following groups:

- Age
- Disability
- Gender
- Sexual Orientation
- Race
- Religion and Belief

Your responses to the questions will help us to carry out a full equality impact assessment for a National Confidential Forum.

## Questions

1. Do you think the creation of a National Confidential Forum will have a disproportionately negatively impact on particular groups of people in our target audience?

**No**

Comments.

**Provided all the reasonable needs and expectations of individual participants are met in the processes. There are concerns about the real possibility that participants will suffer further distress and trauma, if the reasonable needs and expectations of victim-survivors are not addressed or met in the Forum process.**

2. Do you think the creation of a National Confidential Forum will have a positive impact on particular groups of people in our target audience?

**Yes**

**It will enable victim, survivors to recount their past experiences provided testimonies are reflected accurately and not unduly disseminated or redacted.**

3. What negative impacts do you think the National Confidential Forum will have on a particular group?



### Question 3 Comments,

There are concerns around the real possibility that participants will suffer further distress, trauma, without having their individual reasonable expectations, needs and issues adequately addressed in the Forum processes leading to further harm. Also that individual testimonies will be aggregated, unduly disseminated and redacted.

We remind all parties of the serious issues raised in the Kaufman report (Canada 2002). An important evaluation of one process in Canada—the Kaufman report—outlines exactly why that process was wrong for everyone who was involved. Lessons can be learned from processes that go wrong as well as from those that have been successful.

Concerns for former employees who were decent and good and had no role or part in this abuse of former residents. False allegations remain a serious concern for a number of the parties and steps should be in place to minimise and address such issues.

### 4. What positive impacts do you think the National Confidential Forum will have on a particular group?

#### Question 4, Comments

Society as a whole will hopefully have a better understanding of these historical abuse issues affecting Scotland and the present care system should address issues concerning the current care organisations to ensure they are in fact "fit for purpose" today and lessons are duly learnt. That future generations of children in care in Scotland will be better protected and those providing such care are in fact "Fit For Purpose" today

### 5. What changes would you suggest to reduce any negative impact you have identified?

Question 5 Comments,

**Equitable resolutions and remedies for participants in line with the Scottish Human Rights Commission's recommendations and framework regarding these issues.**

**A fair and robust process for All taking into consideration the "Kaufman Canada report recommendations while being sensitive to the needs of victim-survivors.**

**6. What changes would you suggest to enhance any positive impacts you have identified?**

Comments,

**Equitable resolutions and remedies for participants in line with the Scottish Human Rights Commission's recommendations and framework regarding these issues.**

**A fair and robust process for all taking into consideration the "Kaufman" Canada report recommendations**

**7. Are there any significant issues we need to consider in relation to:**

- Age
- Disability
- Gender
- Sexual Orientation
- Race
- Religion and Belief?

#### Question 7, Comments

**Arrangements should be in place for those participants with learning and physical disabilities including hard of hearing. There should be no barriers to participating in the Forum regardless of disability, sexual orientation, gender, age, race, religion or belief or location of participants.**

**It may also be appropriate and necessary to ask participants who they wish to be interviewed by (male or female panel members) as some participants may have a preference who they wish to see and be interviewed by.**