

Historical Abuse Systemic Review: Residential Schools and Children's Homes in Scotland 1950 to 1995

In brief

Following a debate in the Scottish Parliament on 1 December 2004 seeking an inquiry into past institutional child abuse, the then Minister for Education and Young People, Peter Peacock, announced his intention to appoint an expert to independently analyse the laws, rules and regulations that govern children's establishments, how they were monitored and how they worked practice. This short briefing note highlights the main points from the Review¹.

Background

In 2007 the Scottish Executive commissioned a review into historical abuse in residential schools and children's homes in Scotland from 1950 to 1995. The review was a direct outcome of a debate held in the Scottish Parliament on 1 December 2004 by the Public Petitions Committee, seeking an inquiry into past institutional child abuse.

In 2005, the Scottish Parliament appointed Tom Shaw, an independent expert to lead the review. He was the former Chief Inspector of Education and Training in Northern Ireland and was assisted by a researcher and a legal researcher. The review concluded in 2007².

The Scope of the Review

It was a systemic review which focused on the regulatory framework that govern residential schools and children's homes. While its primary focus was on the regulatory framework, it was acknowledged from the outset that to undertake a review of this kind, it would be necessary to talk to and receive information from people who had lived in residential schools and children's homes in the past. It was also considered essential to talk to those who had worked in the residential childcare sector.

¹ <http://www.scotland.gov.uk/Publications/2007/11/20104729/0>

² <http://www.scotland.gov.uk/Publications/2007/11/20104729/2>

The remit stated that "so as not to prejudice either any possible criminal proceedings or any litigation at the instance of the survivors of abuse the Independent Expert was not to report on the facts or circumstances of any individual cases of abuse"³.

Methodology

The review depended on the availability of records to fulfil the remit. In practice, however, many aspects of records - from their accessibility to their very existence - proved extremely challenging to the review team.

With the assistance of an employed researcher and a legal researcher the review was taken forward in a number of ways including questionnaires to every local and voluntary authority (including churches and religious orders) in Scotland to establish whether they had provided residential schools and children's homes at any stage during the review period. Information on their policies and practice in residential child care in the past was also requested.

Files held in the National Archives of Scotland (NAS), and in other archives in various locations in Scotland and England were reviewed. Expert advice on the legislative framework was sought.

Former residents had the opportunity to tell of their experiences of living in residential establishments; some information was provided in meetings, some in telephone conversations and some in letters, emails, etc.

People who had worked in organisations involved in providing, monitoring and inspecting services for children in residential establishments during the review period were also interviewed.

An advisory group was established. The members' expertise included inspecting social work services and education, children's hearings, archives and record-keeping, the oversight of residential child care, training and development for the care sector, the health service, academic research into residential child care and the police.

Challenges faced in conducting the Review

The team found that no information existed describing what regulatory framework was in existence between 1950 and 1995, which made the search for related policy, guidance and standards difficult.

The remit appeared to presume that all relevant information would be found in the former Scottish Office records and that information would be publicly available. This was not always the case⁴.

There was also no central government database that recorded the names of children's residential establishments, their location, dates of operation, their purpose or their management structures. No schedules existed of which records had been kept or disposed of. No laws required these types of schedules to be kept. The report

³ Ibid

⁴ <http://www.scotland.gov.uk/Publications/2007/11/20104729/10>

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concluded that poor records management practices meant that records were missing, had been destroyed or were not generated in the first place. In some cases files were closed and voluntary, private and religious organisations had no legal obligation to give access to the review.

While the review found that many people recognised the importance of records relating to children's residential services, it also found that "some senior people in local authorities, voluntary and religious organisations were guarded and even unwilling to help. The review also learned that senior people had ordered records to be destroyed".

Finally even if records were available, disclosure was also subject to the terms of the Freedom of Information (Scotland) Act 2002 and the Data Protection Act 1998. Legal issues arising from this made it difficult for organisations and governments to comply with the proposed spirit of opening up their files.

Summary of Findings

The poor overall state of records raised important issues about how voluntary organisations, religious organisations and local authorities that provided children's residential services were held accountable to children, former residents and others, for the services they provided.

Despite extensive and complex regulation, laws did not ensure that residential care services responded sufficiently to the needs of the children. The law responded only slowly to growing awareness of the abuse of children, and corporal punishment was allowed in some residential establishments until the 1980s.

It was only towards the end of the study period that children's rights began to be acknowledged. Most of the gaps and inadequacies in the legislation for providing, regulating and inspecting residential schools and children's homes identified by this review from 1950-1995 were addressed by or after the Children Act 1995.

The review found that attitudes to punishment had been "inconsistent", and although abuse was known about during the study period, public awareness did not develop until the 1980s.

The Review found that the law did not insist that residential care staff should be suitably qualified, and there was no national vetting system or national care standards.

The report warned against imposing 21st century views on what happened in the past, and noted that attitudes to children had changed, with legal acknowledgement of children's rights only taking full effect within the ten years prior to the report.

Former residents indicated that they have different and varying needs although there were some common elements to all. Some or all former residents indicated they would like⁵:

- A survivors' conference to discuss funding distribution for support services
- Direct apologies from the organisations or local authorities with responsibility for them as children
- The establishment of a historical account
- Support and advocacy services for survivors of childhood abuse
- Support and advocacy services, including educational and training opportunities, for all former residents who may require such services
- Right of access to records
- Accountability by those responsible for the residential establishments where they resided
- Proper vetting, listing and reporting procedures for employees
- Effective training, monitoring and investigation procedures for employees
- An independent complaints reporting system for children
- A judicial inquiry
- Making certain that the law is applied to ensure due legal process; and
- Legal amendments to eliminate the possibility of reductions in sentences due to technical loopholes.

Recommendations

The key recommendations were as follows:

- To strengthen the arrangements for the welfare and safety of children in the care of the state
- To meet identified needs of former residents for a range of support services, including access to records;
- To improve provision and practice for children's residential services records
- To establish a national task group with oversight of services provided for looked-after and accommodated children. The Task Group would report to the Education, Lifelong Learning and Culture Committee of the Scottish Parliament.
- A review of public records legislation that would ensure that old records were preserved and former residents could get access to them.

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⁵ <http://www.scotland.gov.uk/Publications/2007/11/20104729/12>

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