



OFFICIAL REPORT
AITHISG OIFIGEIL

Education, Children and Young People Committee

Thursday 12 January 2023

Session 6



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EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE
1st Meeting 2023, Session 6

CONVENER

*Sue Webber (Lothian) (Con)

DEPUTY CONVENER

*Kaukab Stewart (Glasgow Kelvin) (SNP)

COMMITTEE MEMBERS

*Stephanie Callaghan (Uddingston and Bellshill) (SNP)

*Graeme Dey (Angus South) (SNP)

*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

*Ross Greer (West Scotland) (Green)

*Stephen Kerr (Central Scotland) (Con)

*Ruth Maguire (Cunninghame South) (SNP)

*Michael Marra (North East Scotland) (Lab)

*Willie Rennie (North East Fife) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Carol Lamont (Scottish Government)

Oliver Mundell (Dumfriesshire) (Con)

Gillian Nixon (Scottish Government)

John Swinney (Deputy First Minister and Cabinet Secretary for Covid Recovery)

CLERK TO THE COMMITTEE

Pauline McIntyre

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Education, Children and Young People Committee

Thursday 12 January 2023

[The Convener opened the meeting at 09:30]

Redress Scheme

The Convener (Sue Webber): Good morning, and welcome to the first meeting in 2023 of the Education, Children and Young People Committee. The first item on our agenda is an evidence session on the redress scheme. I welcome John Swinney, the Deputy First Minister and Cabinet Secretary for Covid Recovery. He is accompanied by Gillian Nixon, head of operations, and Carol Lamont, policy lead, both from the Scottish Government's redress division—I welcome both of you, too. Oliver Mundell MSP is also attending the committee, as he remains interested in the work of Redress Scotland and how the redress scheme is working.

Thank you for joining us, and I wish you a happy new year. We will begin with a short opening statement from the Deputy First Minister.

The Deputy First Minister and Cabinet Secretary for Covid Recovery (John Swinney): I am grateful for the opportunity to update the committee on the progress of Scotland's redress scheme, now it has completed its first full year of operation. The scheme is delivering tangible redress in the form of acknowledgement, payment, apology and support to people who suffered abuse as children in the care of the state.

Scotland's redress scheme opened in December 2021. As of 31 December 2022, 1,960 applications of various levels of completion have been received; 345 initial applications have been completed, verified and passed to Redress Scotland for independent decision making; and 277 initial determinations have been made. Payments totalling £11,368,373 have been issued directly to applicants. Although those figures are heartening and demonstrate good progress, there is more work to be done, and feedback from survivors and their representatives is continuing to shape the scheme.

Redress payments are not dependent on contributions from any organisation, and organisations are not compelled to contribute. When the scheme launched, 10 organisations were contributing to the scheme. That figure is now 16, with potential contributions totalling £122 million. In December, I wrote to each applicant to

reassure them of my on-going personal commitment to the scheme and to reiterate its three principles, which are compassion, dignity and respect. I understand that some applicants are experiencing challenges in accessing records to support their applications and that some are finding that the process is taking longer than they had anticipated. Those concerns have been heard and are being responded to.

The number of case workers who are supporting survivors or their next of kin to complete applications has increased from 12 to 23 since the scheme launched, in December 2021. That will mean that there is swifter allocation of a named case worker to people who have completed applications that are ready for verification checks. I recognise the need for on-going communication and have assured all applicants, no matter what stage their application is at, that they will receive an update by the end of February and that there will be more regular communication going forward.

The survivor forum, which was established in March 2022, will increase its activity and provide opportunities for survivors to give their feedback and further shape the scheme. A new group including representatives from the Scottish Government and local authority bodies has been established and will work collaboratively to provide support to applicants to the scheme. A standing agenda item for the group is access to records and supporting information, and the group will be holding its second meeting in the coming weeks.

Survivors have told us that the provision of personal acknowledgement and apology is often the most meaningful and important aspect of redress. So far, the scheme has supported 12 survivors who have requested a personal apology, and that has already been secured for 10 of them. Feedback from some survivors who have received an apology has been positive and moving.

I welcome the on-going interest from the committee, and, more widely, from members of Parliament across the chamber, in the scheme. I am confident that Scotland's redress scheme will continue to build upon its successful first year of operation, delivering a robust and credible route to redress in a swifter, less adversarial way than court action. I am committed to ensuring that all the necessary steps for the scheme to be effective are taken and that any improvements that are required are delivered. I am happy to answer members' questions.

The Convener: Thank you. We move to members' questions, with the opening questions coming from Graeme Dey.

Graeme Dey (Angus South) (SNP): Thank you. Good morning, Deputy First Minister. The redress issue has always been surrounded with great sensitivity. With a process such as this, there can be a disconnect between people's expectations about how efficiently a scheme will work and what is reasonable to expect in the initial phase. Can you give us a broad sense of how you feel the scheme has performed up to now, recognising that it is still to be built upon and developed?

John Swinney: Any new scheme inevitably takes time to find its feet and its effectiveness, efficiency and pace of work. There will be a range of applications to a scheme of this type, and a new issue will be uncovered in probably every application. That issue will have to be considered and related to the legislation. Colleagues will recall that the legislation for the scheme inevitably has to be very complex. A variety of considerations must be made on literally every application, so it is fair to say that the scheme will be slow to begin.

The pace will be maintained. One way to illustrate that, which might help to address Mr Dey's question, is to look at March 2022, which is a couple of months after the scheme began operating. In that month, 26 applications were passed from the Scottish Government to Redress Scotland for determination. Those were applications that had been completed and were to be judged for a redress payment. In November 2022, that number was 66. I hope that that gives the committee some reassurance that the pace is increasing. The November figure also predates the recruitment of essentially double the number of caseworkers.

I unreservedly accept that any scheme of this type takes time to find momentum. More applications came in more quickly than we had anticipated. The total number of applications is not adrift from our expectations, but the rate at which they have come in is most definitely different. The state of development of those applications is variable: some are very advanced, some are not. It has taken a lot of time to support applicants to get to a conclusion. There is now a growing sense of momentum within the scheme, which I am keen to build upon.

The Convener: We move to questions from Ross Greer.

Ross Greer (West Scotland) (Green): Deputy First Minister, you will remember that, during the stage 3 proceedings on the bill, Parliament agreed to my amendment asking for an 18-month review during the scheme's initial period of operation. Please talk us through the processes that are in place to gather the evidence that that review will require.

John Swinney: Comprehensive data is emerging, some of which I have already shared with the committee during my opening statement and some of which is reflected in the information that I have just put on record in response to Mr Dey's question. There will be other information—for example, about the number of cases in which individuals have requested a review of Redress Scotland's determination and the outcome of some of those reviews. I am very confident that there is a broad range of data that will satisfactorily provide the evidence base on which a report can be constructed to address the substance of Mr Greer's amendment.

There is another dimension that is just as important, if not more so, and it is what we hear from survivors through their feedback. It is, of course, less quantifiable than the data I have just talked about. Nonetheless, it is very important for us to openly acknowledge the feedback from survivors about their experience and for us to decide what we need to do to address that as part of the operation of the scheme. The data and information are there.

It is all very well for the Parliament to pass an amendment that says that there will be a review, but, in the light of this meeting, if the committee wishes to give some input about what it would like to see covered in the review, I would be very happy to consider that to ensure that what we produce in the review addresses the points that are on the minds of committee members.

The Convener: We can certainly do that.

Ross Greer: Yes, that is a very welcome invitation. Thank you.

You will remember that by far the most controversial element of the proposals in the bill and what is operating in the scheme was the waiver. We all struggled with that, and a number of us came to very different positions on it, despite complete consensus about the broad principles of the bill. Could you talk a bit about the specific arrangements that are in place to ensure that the review will be able to report on the impact the waiver has had? The primary purpose of my amendment was to ensure that we could assess the impact of the waiver.

John Swinney: We will gather that information from our dialogue with survivors, and that dialogue is broader than simply the Redress Scotland process, if I can call it that. The discussion about the waiver acknowledges that there will be a group of people who decide that, because of the presence of the waiver, the scheme is not for them. Therefore, for us to provide as complete a picture as we can, we have to be cognisant of what those who are looking at the scheme and coming to the conclusion that it is not for them—

because, for example, of the presence of the waiver—are considering about the scheme, and then we must formulate a position that reflects all of that information.

There will be applicants who will consider whether it is appropriate for them to sign the waiver once they see the proposition that comes to them from Redress Scotland, and it is important for us to gather that information and to reflect on that in the progress report that we undertake.

Ross Greer: Without wishing to pre-empt the report, given that there has been consistent, ongoing dialogue with survivors, do you have any indication of what the impact has been so far? Has there been feedback that shows a particular trend?

John Swinney: Given that we have completed and passed to Redress Scotland 345 applications, it is quite difficult to draw out patterns of opinions at this stage. Redress Scotland has made 277 redress determinations, and 255 applicants have already made a decision to accept their offer. A period of six months is given to an applicant to consider whether they wish to accept the application, so, according to that data, applicants in 22 cases have not yet decided to accept the offer. I am making an assumption that they are considering whether it is appropriate, and I imagine that the waiver will be part of their considerations.

Given the interest in the answers to those questions, we will endeavour to provide as much detail as we can in the 18-month report about the attitudes and views about the waiver and its significance.

I hope that that reassures the committee that the overwhelming majority of applicants see the proposition that comes to them as something that they are prepared to accept. I appreciate that I am making an assumption, based on that data. We probably have to interrogate applicants' views and attitudes to conclude on that position.

09:45

Ross Greer: My last point on that is to ask you, as part of that review process, to ensure that the views of survivors who have chosen not even to begin the application process are taken into account. We can assume, based on the evidence that we took in the first place, that a number of those who decide not even to embark on the process may well do so because the waiver is in place.

John Swinney: I am certain that that is the case. I assure the committee that we will explore that issue in the dialogue that we have with survivors.

I have been talking to a particular survivor who has been very helpful in informing many aspects of our approach, but who is wrestling with the very difficult dilemma of whether the scheme is correct for them, given the presence of the waiver. I can think of that one example where that is a very big consideration for the individual. They are making an outstanding contribution to our thinking and development and could not be more helpful, but the waiver is an issue for them on a personal level. I acknowledge that.

Ross Greer: The core purpose of the waiver, and the argument that was put to us about why the waiver was necessary in the first place, was that it would ensure that certain organisations made a contribution to the scheme and were willing to participate. Have those organisations done so to a satisfactory extent?

John Swinney: The level of contribution by external organisations is broadly positive. I said in my opening remarks—

Ross Greer: I am sorry to cut across you, Deputy First Minister, but I am conscious of time. I am asking specifically about the organisations that made it clear that they would not contribute unless a waiver was in place. The organisations that were most vocal and were prepared to come to the committee and put their views on record were generally the organisations that were not intent on the waiver being necessary. In a way that was significantly problematic for parliamentary scrutiny, the organisations that did not appear in front of the committee and did not put their views on the record were quite clear, off the record, that they would not contribute without the waiver being in place. Have those organisations contributed?

John Swinney: I have the list that is published on the Government website, so I am at a wee bit of a disadvantage in not knowing specifically to whom Mr Greer refers. I would be happy to pursue the issue subsequently. The list is available on the Government website. I feel that we have a reasonable level of participation from external organisations. I acknowledge the sensitivity of the matter and the concerns. It may be for a broader range of people to judge whether my view is appropriate.

The Convener: Thank you, Deputy First Minister, for managing that question so delicately.

We move to questions from Kaukab Stewart.

Kaukab Stewart (Glasgow Kelvin) (SNP): Deputy First Minister, thank you for the update on caseworker recruitment. I would like to look into that a little. You acknowledge that more work needs to be done on that. I have a constituent whose case I have been following. Initially, they felt that there was a shortage of caseworkers and were not allocated one, although the situation has

moved on since then. That seems to mirror what you said about the recruitment of 23 caseworkers. Will the number of caseworkers be maintained throughout the operation of the redress scheme? Is there any wiggle room? Cases are obviously very complex. Is there a requirement for more casework to be done or for more people to be brought in?

John Swinney: When we started, our original plan was to recruit 12 caseworkers, which we did, and the team was constructed on that basis. It quickly became clear to us, however, that that was not going to be sufficient, given the shape of applications that had come in, so we took the decision to expand the number of caseworkers.

It is no secret that it is quite difficult to expand civil service employment just now—that is not really flavour of the month. The decision to double the number of caseworkers should therefore be considered in the context of the recruitment constraints under which we are currently operating as an indication of the fact that we recognise that the scheme had to be more substantively resourced than it was to begin with.

In the first months of this year, we will begin to see the effect of the new caseworkers coming in. I expect the numbers that I shared with Mr Dey to grow—the number of applications being passed to Redress Scotland went from 26 per month back in February to 66 a month—and I will be monitoring that progress, because it will be an indication of the effect of those caseworkers in processing more cases.

I am anxious, however, that people should not be waiting longer than is necessary for a determination. They have suffered enough, and that is the last thing that they should have to do. If we need to expand the number of caseworkers further, therefore, we will do so.

I make one point, however: recruiting caseworkers for this particular task is not a straightforward exercise, because not everybody is suited to such work. It is very taxing, emotionally and psychologically, on individuals, and staff have to come to the job with a deep sense of commitment to the task. It is a difficult task, and they have to be trained to have the necessary resilience to deal with it. We have to be satisfied that they are trauma trained and can deal with trauma appropriately, and that process is not straightforward.

The recruitment process in itself takes some time, and we have to be satisfied that we have people who can deploy the right approach in handling the applications. Although I am leaving the door very much open to continued expansion, I add the caveat that we have to be satisfied that the necessary recruitment and training

approaches are in place. Without being in any way disrespectful, I note that we cannot just go to a temping agency and say, “Send us another 10 people”—that would be totally counterproductive.

I put that on the record in order to seek some understanding from the committee that we have to take a lot of care in the recruitment of those individuals.

Kaukab Stewart: Yes, that is absolutely noted. Those of us who are dealing with constituents on the matter are aware of one layer of the complexity and sensitivities around it, so I can imagine the challenges for caseworkers in doing that very professional job. It is important to put an acknowledgement of their work on the record.

You mentioned that people have been waiting a long time. Is there any priority given? Obviously, every case is individual, and they all deserve the same priority, but there will be people who, for either medical or other reasons, might be prioritised. Has that been considered?

John Swinney: We are prioritising applications from people who have a terminal illness or who are over the age of 68. We utilised those two criteria in the advance payment scheme that we put in place in advance of establishing Redress Scotland, when we used the general powers that were available to the Government to put in place a temporary scheme, and we continue to apply them.

Although they might not have been allocated a caseworker, we have started a process of calling individuals to tell them that we have their application and it is being looked at. We are contacting individuals in a way that was not done in the beginning, as we recognise that there was a gap. People submitted their application and then there was a bit of a vacuum.

We put in that call to people within six weeks of the application being submitted so that they know that it has been recognised and is going through the process but that it might be some time before we get to it. As I say, I believe that we now have more momentum within the system, but we are yet to see the fruits of the recruitment of the additional caseworkers.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): Deputy First Minister, I welcome what you said in your answers to Graeme Dey and the deputy convener that we have gone from 26 applications being considered each month to 66, and that figure might go up with the additional caseworkers. I hate the expression “throughput” but that is what it is, if you like. However, the individual experience is the length of wait for each individual, so what is the average length of time that someone has to wait to have a determination made, and what do you anticipate

the average length of wait will become as the new caseworkers get up to speed? That will allow us to monitor the individual experience rather the number of cases going through the system, and that would be helpful to the committee.

John Swinney: It is difficult for me to give a specific answer to that, because the applications are so individual and come in at such different stages of development. Some applications come in with quite a lot of information and evidence, and they can be processed and passed to Redress Scotland quite quickly. Once an application goes to Redress Scotland, the process time for determination is something of the order of 21 days.

It is difficult to give a figure for the stages prior to that, because the evidence base and the quality of the applications vary significantly and caseworkers might well be actively involved with an applicant in trying to source additional information. An individual might submit an application and be allocated a caseworker, and the caseworker might have to work with them to develop a sufficient evidence base to make the application as strong as possible. That will influence the amount of time that is deployed and the turnaround time on individual applications.

Bob Doris: I accept all of that, Deputy First Minister, because there are such individualised cases. Is there any way in which that could be monitored? I accept that each individual case has to be looked at empathetically and that applications can be at different stages when they are made, but it would still be good to have some form of monitoring of the efficacy of the case handling system for those individuals as they go through the process. I know that raw data might not be relevant, but will you keep that under scrutiny, anyway?

John Swinney: Let me take that point away with me, and I will see whether I can share any more information in the light of this evidence session. If the committee recognises that that is an important issue and there is anything further that we can develop to support that, I will certainly look at it.

The Convener: Thank you for that commitment, Deputy First Minister. We move to questions from Stephen Kerr.

Stephen Kerr (Central Scotland) (Con): Thank you, Deputy First Minister, for the way in which you are dealing with all this. You mentioned the letter that you sent on the anniversary of the first year of the scheme, and I imagine that you got quite a lot of feedback from those to whom you wrote. One of the people who received your letter said that they felt that it was tone deaf and that

“deliberations are taking so long that most will be dead before they are given payment”.

That is obviously an emotional response from a survivor.

I have heard very clearly that you put the delay in the process down to the nature of the applications. You described that there was a problem with the capacity to process applications. Am I right in saying that? Is that the basic summary of why it is taking so long?

10:00

John Swinney: Three factors are involved. First, although the total volume of applications has not surprised us, the volume that came in so early was counter to our expectations. That relates to the second point, which is that those applications came in at variable stages of development; some were very advanced and some were not advanced at all in terms of evidence. We would serve nobody's interests by sending an ill-developed application to Redress Scotland, because it would stand a chance of being rejected. Thirdly, we started off with 12 caseworkers, but we judged that that number was not sufficient, so we have taken action to double it.

Stephen Kerr: Just to confirm, did you start off with 12 caseworkers in place?

John Swinney: Yes, we did.

Stephen Kerr: How many are there now?

John Swinney: Twenty-three.

Stephen Kerr: There are now 23, so the intention to recruit has been fulfilled.

John Swinney: Yes. The recruitment process was completed in November.

Stephen Kerr: Your commitment is to expand that if necessary—is that correct?

John Swinney: We will keep that under review, but I am confident. The number of applications that I shared in response to Mr Dey's question were the numbers for November, when none of the new caseworkers were contributing, because some were still being recruited and some were in training. A lot of that training was also going on in December. We will only now, in January, begin to feel the benefit of the 23 caseworkers, so I expect the numbers that I put on the record in response to Mr Dey—the number of applications going from 26 to 66 a month—to increase in the coming months.

Stephen Kerr: As the minister responsible, are you satisfied that applicants are getting the right level of support that they need at all stages of their application?

John Swinney: Yes, I am, but I acknowledge that people will be frustrated by the time that it will take, because we have a backlog to work our way through. To go back to the deputy convener's point that I responded to, we can throw temporary resources at a routine application process for administrative information, but that cannot be done in this situation. It is too sensitive and too complex. Frankly, it would be disrespectful to do that.

I feel that we have a robust and well-resourced scheme, but I acknowledge that there is frustration at the length of time that it is taking. I again go back to the deputy convener's point—this was contained in one of the points that Mr Kerr put to me from the correspondent who has responded to my letter. We are prioritising people with a terminal illness and older applicants. We are working through the applications as systematically as we can.

Stephen Kerr: I appreciate how you are responding to the voice, as it were, of the survivor, because it is important that their voice is heard in the proceedings of the committee.

John Swinney: Definitely.

Stephen Kerr: Another survivor said in relation to the issue of support:

"It's not acceptable for survivors to have to keep reliving their trauma because a public body can't get their skates on and fix things."

That is a reflection of the frustration that you have described.

John Swinney: There is a difficulty there, because it is inevitable that, in the scheme, we will, unfortunately, need survivors to recount what has happened. That is unavoidable and inescapable in the scheme. That will come at a particular moment in the handling of the application, which is why we need to have the right people to properly handle that process with applicants. Regrettably, there is an inevitability about some of that because of the nature of the scheme. We are trying to address things that should never have happened in people's lives, so that will be traumatic and painful. We try to reduce that to the minimum level possible, but it is an inevitable part of the scheme, unfortunately.

Stephen Kerr: Earlier, you had a discussion with Ross Greer about the waiver scheme and contributions from organisations. It was very difficult, of course, to work out what the potential cost would be, which was acknowledged in the previous parliamentary session when the legislation was going through the legislative process. Now, a year down the line, are you in any better position to estimate where we are in relation to the original estimate of the costs of the scheme?

John Swinney: It is a developing picture. I have put on the record the fact that we have made redress payments of just short of £11.4 million. We will just need to see how that develops. The data is there to be monitored against our original expectations, but, for this scheme, as I think that I acknowledged when we were looking at the bill's financial memorandum, it was not possible to be absolutely certain about the cost. We made our best attempt to provide an evidence base, based on international experience. However, we live in Scotland, and it will be what it will be in relation to the applicants who come forward.

Obviously, it is appropriate and important that I continue to inform the committee about the development of payments as a matter of public record. If the committee wishes to reflect to me what information it wants to see regularly, I will happily supply that in letters to the convener to give the committee an update on that or any other information that is relevant to the committee's deliberations.

Stephanie Callaghan (Uddingston and Bellshill) (SNP): In response to Stephen Kerr's question, you touched on the trauma that people go through when writing their statements. We have seen the media coverage—survivors have spoken about the time that it takes and the upset that it causes them to write a fresh statement when they are prevented from using a statement that they have submitted to other inquiries. Can you comment on the reasoning behind their having to write a fresh statement and any steps that can be taken to minimise that re-traumatising impact on the applicants?

John Swinney: That is quite a delicate matter for me to handle, because the situation to which Stephanie Callaghan refers is a consequence of a restriction order issued by Lady Smith, as chair of the Scottish child abuse inquiry. The order prevents applicants from using their inquiry statement as part of their application, unless the applicant has waived their anonymity at the inquiry and the statement has been published by the inquiry. That is a decision for the inquiry by Lady Smith. I have made representations to seek a different view, but I have been unsuccessful in seeking an alternative approach.

As the committee will appreciate, the child abuse inquiry operates independently of Government, so I have to respect the conclusion that has been arrived at by Lady Smith in applying a restriction order, which it is perfectly within her powers to do.

Stephanie Callaghan: Is there anything that you would say to the applicants who feel re-traumatised by that process? Can any further steps be taken to offer support in that area?

John Swinney: First, I want to reassure applicants. We have tried to secure an alternative approach, but we have been unsuccessful. I apologise to applicants for the fact that they are having to go through a similar process, but I seek their understanding. We need to have that information to enable us to ensure that they have the strongest possible case to put to Redress Scotland. In that context, our caseworkers will work with them sensitively to ensure that that case is produced.

Stephanie Callaghan: Thank you. I appreciate the sensitivity, and it is good to have that on the record.

In a similar vein, I welcome the survivors forum that has been established to engage with all the applicants in order to gather their feedback. Is there flexibility to ensure that that feedback can be considered quickly enough in order to enable real, practical improvements to be made to the process where that would be helpful?

John Swinney: Yes. We are listening to survivors' feedback all the time and, at an operational level, we are changing and adapting processes to ensure that we reflect that. There is an environment of constant learning in the team that is working on that activity in order to ensure that we are hearing, absorbing and applying the feedback from survivors on an on-going basis. That is a welcome part of the process that we are undertaking.

The Convener: We move to questions from Michael Marra.

Michael Marra (North East Scotland) (Lab): I welcome the Deputy First Minister.

I want to ask some questions about Fornethy house; I know that you are very much aware of, and have taken an active interest in, that case. It relates to young girls who were sent from Glasgow, by Glasgow Corporation, to Fornethy house in Angus over a period of decades, many of whom seemed to suffer systemic and horrific abuse. I know that there is much more detail to come out on those issues.

You will be aware that the Citizen Participation and Public Petitions Committee has written to you this week in relation to petition PE1933, which is entitled "Allow the Fornethy Survivors to access Scotland's redress scheme". The committee is clear, based on the evidence that it received, that the state had responsibility and acted to send those girls to Fornethy house. I would like to hear your reflections on the eligibility of those women survivors to access the redress scheme.

John Swinney: I am grateful to Mr Marra for raising that question, because it offers a timely opportunity to reflect on the case. I will address his

question—if you will forgive me, convener, this may well take some time—in two parts. The first concerns the situation that we face today; the second concerns my thinking in the light of the Citizen Participation and Public Petitions Committee's letter to me.

I will outline the current situation. I have listened carefully to the group that has made representations to me, all the members of which are Fornethy survivors and are part of the wider group. I do not believe that, as things stand, there is an inherent impediment to applications to the redress scheme coming forward from people who spent time at Fornethy. I acknowledge that the nature of the environment in which individuals were spending time at Fornethy could be considered to fall within the ambit of the scheme, so I do not think that there is an inherent impediment to applications coming forward and being considered. To put it slightly more bluntly, I reject the idea that the scheme is not for Fornethy survivors; I think that it is possible for Fornethy survivors to be successful in applying under the scheme.

That brings me to my second point, which concerns where I stand in relation to the Citizen Participation and Public Petitions Committee's letter—as Mr Marra correctly said, I received the letter from the committee's convener, Jackson Carlaw, just this week.

10:15

In that letter, Jackson Carlaw made a key point to me. He said:

"The Committee heard that parental responsibilities were transferred to local authorities, such as the then Glasgow Corporation, temporarily and in these cases the local authority could be considered to be acting 'in loco parentis' when providing short-term respite and holiday care."

That is the key point: the scheme for which Parliament legislated provides redress because of the obligation of the state to ensure that proper care was provided to individuals when they were in an in-care situation as the responsibility of the state.

If a young person was at a holiday camp and was dropped off and picked up by their parents, it would be difficult to substantiate the view that the state was exercising responsibility. However, I do not think that the situation at Fornethy ticks that rather neat middle-class box—if I may say so—that I have just outlined to the committee. The more I understand about the situation at Fornethy, the more I find it difficult to reconcile it with the idea of some form of voluntary endeavour, and I think that the matter hinges on that point.

That is a long way—forgive me for the length of time that I have taken, convener—of saying that I

am going to reflect carefully on the letter that I have had from the Citizen Participation and Public Petitions Committee. I gave the ladies who came to see me an assurance that I would look carefully at the issue, and I have said publicly that I do not think that there is an impediment to their cases being considered under the redress scheme. With regard to whether I need to do something more explicit, I am certainly considering whether there is a case for doing so based on what is, it would be fair to say, an emerging picture of the circumstances in which people found themselves at Fornethy.

Michael Marra: Thank you, Deputy First Minister. I think that that is a significant evolution, given the evidence that you have taken and the conversations that you had with the survivors, and it certainly moves on from the submission that you made to the Citizen Participation and Public Petitions Committee on 8 September. The language that you have used is very sympathetic, and I recognise that you will want to consider the matter more fully in response to that committee's letter.

Caroline Harris, who is one of the Fornethy survivors, has said:

"The council put us at risk by sending us there. We were sent there by the council. Why have they not acknowledged this?"

As you set out at the start of the meeting, it is partly about looking for acknowledgement and understanding that there is responsibility and that they were put in that situation.

Violet Wilson, who is also a survivor, has said:

"To a child, six weeks feels like a year."

That goes against the idea of a short-term stay. Carol Whyte has said that, to the survivors, "abuse is abuse." They are absolutely clear about what they suffered and that there should be an opportunity for them to access the scheme.

To your knowledge, have any Fornethy survivors specifically applied to and been processed and accepted through the scheme?

John Swinney: I do not know the answer to your question, and I do not know whether I could answer it. I cannot answer it now because I most definitely do not have detailed knowledge of any application, and I am not actually sure that I could ask anyone, if you get what I mean.

Michael Marra: I do.

John Swinney: I am not being difficult, but we have to be awfully careful about the personal data issues involved, so I am not sure about that.

Nevertheless, there is a deeper point that underpins Mr Marra's question, which is whether there is a route for such a process to happen. I

think that there is. That is the reassurance that I have given to the group that came to see me.

I listened to the quotes that Mr Marra gave—this relates to the key paragraph that I read out from Jackson Carlaw's letter to me—and I can understand why people think, "The state was all over this." An interesting and disturbing conversation can be had with Fornethy survivors to work out why they were there. I am really struggling with that point because, from listening to their stories, I cannot fathom it.

That is why I say that I think that the scheme is perfectly open to Fornethy survivors. However, I have to satisfy myself, and I do not think that I can do that by being able to answer the question that Mr Marra put to me on whether a survivor has been successful. I do not think that I will ever know the answer to that question unless a Fornethy survivor tells me.

Michael Marra: That is more than fair.

From your reflections, should Glasgow City Council, as the successor organisation, be acknowledging those women?

John Swinney: At this stage, I would say that all public organisations have to be open and candid about things in the past. The Scottish Government established the Scottish child abuse inquiry because we came to the conclusion that, despite a number of very welcome, well-thought-through approaches to try to address the deep trauma, hurt and agony of individuals, we had not done that successfully without airing the truth about all this.

The Scottish child abuse inquiry is generating material that is unfathomable. In some cases, I readily admit to finding the material unreadable—I literally cannot read some parts of it. It is about the country facing up to its past and its obligations, which is incredibly difficult. I say to any organisation in the country that this is not a moment to be anything other than candid.

Michael Marra: Thank you, Deputy First Minister.

The Convener: We will move to questions from Willie Rennie.

Willie Rennie (North East Fife) (LD): We all appreciate the sensitive way in which you have just addressed that issue, Deputy First Minister. I have met many of the Fornethy survivors, and one can tell that the experience has deeply affected their whole life. I think that they, and everybody here, will appreciate the way in which you have tried to navigate through the difficult legal territory, and I hope that we can find a resolution, because those women deserve justice and fairness.

I want to draw on your wider reflections on the whole process of redress, which is not just about a financial transaction or an application process—people are opening up to you and telling you all their experiences, as happened with the child abuse inquiry. Anybody that they open up to—particularly a Government—has a responsibility and a duty to take that information and treat it with care. It is about the human being as much as the finance.

Now that you are several months into that process, what are your reflections on it? How have you been able to help and assist those individuals? I know that many organisations out there are doing the same work, but people have opened up to you, so what have you learned from the process and what have you reflected on? Do you think that the system that we have in place to carry those people with care is sufficient, if it ever can be so?

John Swinney: It is important in answering Mr Rennie's question to reflect the fact, inherent in his question, that there are a number of elements to this matter—it is not just about a financial redress decision.

I had a conversation, which will never leave me, with the advisers who work with Future Pathways. That organisation predates the redress scheme and the advisers are allocated to support survivors of historical childhood sexual abuse. I asked them how they go about it. One of them said to me, "We walk alongside the individual." What more do we need to know? Those people are probably the first reliable, trusted ally that the individual has had in their life.

I will never forget that conversation and it has gone into the thinking behind the scheme. This area of policy is quite unfamiliar to me. When it all kicked off, when Marilyn Livingstone raised the issues in the cross-party group 23 or 24 years ago, when the Parliament was founded, I thought, "Historical childhood sexual abuse? What?" but, of course, although it was not part of my experience as a child, we now know so much more as a society. I have learned a lot. That concept of walking alongside people has never left me, so the scheme has been designed so that, when we work with people, we walk alongside them to try to help them to a conclusion.

That is the thinking. It is one big thing that I have learned from the process, but I will talk about another thing that struck me. I mentioned that there had been a number of requests for a written apology, which is part of the scheme. That is not about money. One survivor who asked for that and got it, then phoned up their caseworker and asked whether they would mind reading it over the phone to them because they wanted to have it read to them by the state. The caseworker told me that it

was a profoundly moving encounter, because they felt that, in a sense, they were conveying to that individual the state's apology.

I have stood up in the chamber and given an apology on behalf of the Government, which I know survivors value, but there was an applicant asking for a couple of minutes of someone's time for them to read over the phone the apology from the state. I do not know the individual involved, but I hazard a guess that that is more important than the cheque. At least one survivor has asked the First Minister to write to them, and we have arranged for that to be done. A letter has been sent from the First Minister, signed by her own hand.

Mr Rennie is right to highlight that the scheme is a broader consideration. A wee bit of me is in my usual mode of evidence-based transactional data, but there is an awful lot more to the scheme than that.

Oliver Mundell (Dumfriesshire) (Con): I recognise up front your personal commitment to getting the scheme through in the previous session of the Parliament, and I know that there was some time pressure with regard to ensuring that that work did not go to waste. However, on some of the issues around the delays and the challenges of processing the applications, I feel that it is right to press you on the modelling and how we modelled that.

10:30

Today, you have mentioned three factors involved in the delays, and I think that there is a fourth factor, for which, as a Parliament, we are collectively responsible, which is expectation management. Survivors thought, with regard to these applications and the principles that we set out, that things might move a bit quicker than they have. We must always be cautious about that, but, with regard to the modelling, where did the idea that people would take longer to put in their applications come from? We have looked at comparator schemes elsewhere as part of drawing up the legislation, so how did we get that modelling wrong?

John Swinney: The advance payment scheme was handled pretty swiftly, pretty timeously and pretty straightforwardly. Of course, there is a big difference between the advance payment scheme and this scheme. The advance payment scheme had a much lower bar of evidence and process than is involved in the fully legislated-for scheme. In that respect, Mr Mundell puts his finger on a fair point, which is that we probably conveyed the impression that there would just be a continuation of the swiftness of the advance payment scheme, when that is not what would happen. What we

were legislating for was more complex and demanding, so that is one factor.

There is another factor. I hope that I have been as candid during the meeting as I set out to be when I came into the room this morning. I have said that applications came in with varying degrees of evidence: some applications came in with literally only a name, an address and “I was in care at X” and others came in with a folder of stuff and with all the evidence marshalled and all the rest of it. Those two examples of applications require significantly different levels of time and attention.

Therefore, although we have a number of applications that require a lot of development work, I am not sure that I could describe them as “applications”—they are almost pre-applications. In saying that, I am not being in any way disrespectful to what has come in, but I am trying to give colleagues the sense that a lot of development work was required. Although we have got—

Oliver Mundell: That speaks to Mr Doris’s earlier point. I am aware that some applications that were sent in very soon after the scheme opened have still not moved forward, and I guess that they probably fall into that category. We are talking about people who were there on day 1 to make sure that they did not miss out.

John Swinney: On that point, I reassure Mr Mundell and any constituents on whose behalf he might be speaking that nobody is going to miss out. Nobody is going to miss out. The scheme is time limited, yes, but I put on the record during the passage of the scheme that it will not be closed prematurely. Nobody is going to miss out. If there is a proper application to be determined, I give the assurance that it will be determined. It might take longer than people anticipate, but we have given priority to older applicants and those with a terminal illness.

However, I am very conscious that the longevity of even younger people who have experienced childhood abuse is affected by their experience. Therefore, I cannot comfort myself by thinking that we are addressing all that vulnerability. I appreciate that that vulnerability is real and present for many other applicants.

Oliver Mundell: Both of those points were helpful, and what you said will be appreciated.

A number of individuals who have life-limiting and serious health problems feel slightly frustrated when they hear “terminal illness”, because although they want other people who are in difficult circumstances to be successful and do not want to slow things down for them, they fall just short of the medical description of a terminal

illness, and they feel that time is running out for them.

John Swinney: Let me take that issue away, and if the committee wishes to write to me with further thoughts about what those considerations might be, we will look at them. My mind is not closed to applying some prioritisation and to considering applicants who face the circumstances that Mr Mundell spoke of.

Oliver Mundell: Thank you. That will be appreciated.

The other thing I want to ask about is the appeals process. You said before that there have been 277 applications and that 255 offers have been accepted. The information that has been provided by the Scottish Parliament information centre suggests that 15 people had requested an appeal. Are those appeals included in the 22 who have not made a decision about whether to accept their offer?

John Swinney: No, 22 is the gap between Redress Scotland determinations and acceptances; it is the number of people considering offers that have been made to them. There have been 19 review cases: four of those remain in progress and have not yet had an outcome; three have resulted in the initial determination being upheld; and 12 have had the initial determination varied—which means that the offer of financial redress was increased.

Oliver Mundell: Again, that is helpful information. We are dealing with quite a small number—12—and the feedback I have had from one individual is that they feel that, somehow, if a person goes through the review process they could be given more help to gather more information. Some of the people who have received an increased payment offer have spent more time looking at their application, and doing that has brought new information to light. I know that the system is under pressure, which is why I ask.

John Swinney: I do not know the answer to whether the review process will involve the ability to gather new information. That is an issue for Redress Scotland, and is not on the Government’s side of things because Redress Scotland is making determinations at arm’s length from Government.

Oliver Mundell: Obviously, in the process of verifying and looking again at the information that is there—

John Swinney: The process is about looking again at the information; I am not sure that it involves new information.

Oliver Mundell: But things can be pieced together differently.

John Swinney: I invite Gillian Nixon to explain.

Gillian Nixon (Scottish Government): It is important to highlight that a review is open to all applicants at the point when a determination is made. That means there is an opportunity to have a fresh panel look at the application, and there is also an opportunity for the applicant to provide further information that—for any reason—they did not have when their application first went to the panel, if they wish to. If there is anything that the applicant wants to say in response to the initial determination and they want the panel to look at it again, they have the opportunity to put that into their review application.

Oliver Mundell: A number of people got an increased payment after their application was looked at again, and maybe that number of people is a bit higher than you would have hoped for or expected, so I guess that my question is, were you are satisfied with that? I know that it is a new scheme and that this is a sensitive issue, but it struck me that that number was a wee bit higher than you might have hoped.

John Swinney: I am now in mental arithmetic mode, and I am looking at percentages.

Oliver Mundell: It is about 8 per cent of people.

John Swinney: I am not sure that I would know what—

Oliver Mundell: It is about one in 12.

John Swinney: It is quite a high number, I guess. I think that we have to keep the process under constant review. The review panels will continue to look at evidence and come to conclusions, and we need to see a build-up of caseload and evidence to determine whether that is an issue about which we should be concerned. However, that number is a product of the final decision making of Redress Scotland, which is carried out at arm's length from Government.

Oliver Mundell: I am probably testing the committee's patience, but this issue is important to me.

I want to follow on from Stephanie Callaghan's question, as I have come across the same issue with people accessing statements and reports. I understand the sensitivity around that, and I fully appreciate the answer that you gave, but would it be fair to say that, when the bill was passed, it was not the Government's expectation that the restriction order would be in place?

John Swinney: I would prefer it if people were able to use the statements that they gave to the inquiry.

Oliver Mundell: I appreciate that.

The Convener: Thank you, Deputy First Minister, for a very helpful session. I thank everyone for their time. We will consider our final agenda items in private.

10:41

Meeting continued in private until 11:13.

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