



The Scottish Parliament  
Pàrlamaid na h-Alba

**CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE**

Kate Forbes MSP  
Deputy First Minister

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24 July 2024

Dear Kate,

**[PE1933: Allow the Fornethy Survivors to access Scotland's redress scheme](#)**

*Calling on the Scottish Parliament to urge the Scottish Government to widen access to Scotland's Redress Scheme to allow Fornethy Survivors to seek redress.*

The Citizen Participation and Public Petitions Committee first considered the above petition in June 2022. Over the course of the past two years, [the Committee have examined written and oral evidence from a range of sources](#) including the Petitioner, organisations representing victims and survivors, Glasgow City Council, legal organisations, Redress Scotland, and your predecessors as Deputy First Minister. We have also considered representations from parliamentary colleagues including Colin Smyth MSP, Brian Whittle MSP, Martin Whitfield MSP, and Alex Cole-Hamilton MSP in support of the petition.

[At our most recent meeting on Wednesday 26 June 2024](#), the Committee agreed to write to you setting out our unanimous view that individuals who experienced abuse in a relevant care setting should be able to access the Redress Scheme regardless of the length of their stay or whether there was parental consent for their placement.

**Eligibility for the Redress Scheme**

[The Committee previously set out our support for widening the current eligibility criteria to ensure that victims of non-recent abuse, committed over shorter periods of time, are eligible for redress under the Scheme.](#) The evidence we have continued to gather has solidified our view that the regulations introduced in December 2021 have created an unjustified barrier preventing those who experienced abuse in settings such as Fornethy

House, where children had limited or no contact with their parents and were otherwise reliant on a state-run institution for their day-to-day care, from being eligible for redress.

The Committee wished to draw your attention to [the written evidence from Thompsons Solicitors](#), setting out their view that the way in which exclusions have been introduced and applied is inconsistent with the principles of dignity, respect, and compassion which are supposed to underpin the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021.

[The Committee has also received written evidence from the Law Society of Scotland](#) suggesting that a review of the scope of the Redress Scheme would seem appropriate. We are aware that [the Education, Children and Young People Committee has received representation from the Scottish Human Rights Commission](#) recommending that the definitions governing eligibility of the Redress Scheme should be kept under review.

The Committee has noted [the comments of then Deputy First Minister, John Swinney MSP, at the Education, Children and Young People Committee in October 2021](#), and [repeated in correspondence with this Committee](#), where he stated –

“... the purpose of the scheme has been to respond to survivors, who, when they were placed in care, lost the oversight and protection of their parents and families. As a result, they were often isolated and had limited or no contact with their families. By contrast, respite or holiday care was intended to be and always was short term, and the parental rights and responsibilities were not affected.”

During our consideration of this petition, we have heard about the Glasgow Corporation’s role in the operation of Fornethy House, with headteachers and school medical staff responsible for putting forward girls who might benefit from a stay at this residential school. Evidence from the Petitioner, and supported by Thompsons Solicitors, highlights that children were unable to contact their parents while resident at Fornethy House. The Committee therefore considers that there was an exercise of public function by Glasgow Corporation in the case of Fornethy House, who had responsibility for the day-to-day welfare and protection of children during placements.

It is for this reason, we believe the Scottish Government must act to review and revise eligibility for the Redress Scheme to ensure it is operating fairly and compassionately for survivors.

The Committee recommends the Scottish Government review the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021, and consult on expanding the Scheme to –

- include residential institutions that were owned and operated by the state, regardless of how long children stayed in those institutions.
- enable redress to be provided where the abuse was carried out in such institutions by staff employed by the state, regardless of whether parental consent had been provided for the child to be placed there.

Members appreciate that expanding the Redress Scheme to include the above situations may require further legislation and would urge the Scottish Government not to delay taking action to address this recommendation.

### **Evidential requirements and the operation of the Scheme**

[When giving evidence to the Committee in March 2024, the former Deputy First Minister, Shona Robison, told us she did not intend to change the eligibility criteria](#) and that part of the rationale for this was that –

“the absence of records means that, even if eligibility criteria were to be changed, Fornethy survivors are unlikely to meet the evidential requirements of the scheme.”

This does not align with our understanding of [the evidence from Redress Scotland about their approach to determining applications](#). We heard that panel members tasked with determining applications for redress work from a presumption of truth, and that there is provision in the statutory guidance for discretion to be used where records are missing or limited, with applications considered on their individual merit. We heard that supporting information could include statements from family and friends, information from people who were in the institution at the same time, medical professionals, and people in the helping professions.

We have heard repeatedly about the independence of Redress Scotland, and it is the Committee’s view that the Scottish Government should consider the eligibility criteria for the Scheme based on principles rather than on whether individual applications would be able to meet evidential requirements, which is a matter for Redress Scotland and its panel members.

The Committee have also heard that when a determination is made on an application for redress, the Scottish Government receives a letter setting out the decision, the reasons for it, and a reflection of the abuse that the individual experienced. It was suggested that the information contained in these letters and Redress Scotland’s annual report are the routes through which Redress Scotland provide some form of feedback on the operation of the Scheme.

The Committee recommends that the Scottish Government introduce a feedback mechanism to improve the collaboration between the Government’s Redress Unit and Redress Scotland, enabling Redress Scotland to flag any issues or concerns they have about the process.

The Committee would be grateful to receive your response electronically, in Word format, by no later than **Thursday 22 August 2024**. Your response will be processed in accordance with [the Parliament’s policy on the treatment of written evidence](#).

On behalf of the Committee, thank you for your assistance.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J. Carlaw', with a stylized, cursive script.

**Jackson Carlaw MSP**

Convener

Citizen Participation and Public Petitions Committee