

Citizen Participation and Public Petitions Committee

5th Meeting, 2024 (Session 6), Wednesday
20 March 2024

PE1933: Allow the Fornethy Survivors to access Scotland's redress scheme

Petitioner	Iris Tinto on behalf of Fornethy Survivors Group
Petition summary	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.
Webpage	https://petitions.parliament.scot/petitions/PE1933

Introduction

1. The Committee last considered this petition at its meeting on [3 May 2023](#). At that meeting, the Committee agreed to invite the Deputy First Minister to give evidence at a future meeting.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new responses from the Deputy First Minister, the Petitioner, and Professor Diane McAdie, which are set out in **Annexe C**. Members will note that the latest submission from the Deputy First Minister, dated 21 February 2024, includes a link to the report compiled by an independent researcher on [enquiries into Fornethy House](#).
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
5. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.
6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

7. Every petition collects signatures while it remains under consideration. At the time of writing, 7 signatures have been received on this petition.
8. Members may wish to note that the Education, Children and Young People Committee has received correspondence from the Scottish Human Rights Commission, which recommends that the definitions governing eligibility of the redress scheme should be kept under review. A copy of the correspondence is available on the [Education, Children and Young People Committee's webpage](#).
9. Since the Committee last considered this petition, Members may be aware that a Members Business Debate on justice for Fornethy House survivors took place on 25 May 2023. The Official Report of the debate is available on the [Parliament's website](#).
10. At today's meeting the Committee will hear evidence from –
 - Shona Robison MSP, Deputy First Minister
 - Lyndsay Wilson, Unit Head - Policy and Communications, Redress, Relations and Response Division
 - Barry McCaffrey, Lawyer, Scottish Government Legal Directorate, Children, Education, Rights Incorporation and Disclosure Division.

Action

The Committee is invited to consider what action it wishes to take.

Clerks to the Committee

Annexe A

PE1933: Allow the Fornethy Survivors to access Scotland's redress scheme

Petitioner

Iris Tinto on behalf of Fornethy Survivors Group

Date lodged

19 April 2022

Petition summary

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.

Previous action

Written to Nicola Sturgeon

The group members have written to their MSPs

Protest in September and new protest due

A great deal of research into the background and looking for records over the last two years including seeking information from Glasgow Council

We did protests in Glasgow and Edinburgh.

Background information

Survivors need acknowledgement, closure and compensation. The young girls were "in care" of Glasgow Corporation who provided the in care setting for these vulnerable, helpless and isolated children. The decision to make us exempt from the redress scheme has magnified that suffering. We want to be treated equally to other abuse survivors. Redress is an important part.

Going down the legal route incurs great costs and mental resilience which abused victims will mostly find untenable due to the effects the abuse has had on them. We know that childhood abuse affects many socio-economic factors as well as inter-personal and mental health

conditions. Why should they have to? If the government recognises the validity of child abuse and its long term effects, why make them exempt?

Fornethy children were in the care of Glasgow Corporation and they are not being held to account but passing survivors onto agencies to deal with them. Many victims have already spent great sums of money and effort in therapeutic interventions, preparing themselves, being interviewed, giving statements to the Police and the Scottish Child Abuse Inquiry . They are now wondering to what purpose given they are not being taken seriously in the Redress scheme. We know there are records in the Mitchell Library but are being met with silence again. We have no access to justice.

Annexe B

Extract from Official Report of last consideration of PE1933 on 3 May 2023

The Convener: PE1933, which is an important petition for the committee, was lodged by Iris Tinto on behalf of the Fornethy survivors group. The petition calls on the Scottish Parliament to urge the Scottish Government to widen access to Scotland's redress scheme to allow Fornethy survivors to seek redress.

We previously considered the petition at our meeting on 23 November 2022. We agreed to write to the Scottish Government, setting out the evidence that we had gathered and specifically recommending that action be taken to widen the current eligibility criteria of Scotland's redress scheme to ensure that victims of the same type of crime, committed over shorter periods and in different care settings, are eligible for redress under the scheme.

The committee received a response from the then Deputy First Minister, John Swinney, which indicated that work was under way to test the existing eligibility criteria and guidance in relation to Fornethy and that we would receive a further update when that analysis was completed.

We have also received a submission from the petitioner, who is concerned that the matter might disappear into the long grass as a result of the recent changes in Government. The petitioner's submission also requests clarification on the cut-off date for a person who was in care and who seeks to access the redress scheme.

Fergus Ewing (Inverness and Nairn) (SNP): I wonder whether we might invite the Deputy First Minister to give evidence at a future meeting. MSPs from across the parties have expressed strong feelings on the issue. Time is marching on, and the petition is quite old. The sooner the Deputy First Minister can give evidence, the better, out of consideration of the additional pain that is being caused to those who are impacted by the continuing delay and uncertainty. I just add that caveat.

The Convener: I suggest that, just in case the current Deputy First Minister is not familiar with all the issues for whatever reason, we restate some of what we said in the letter to the previous Deputy First Minister and the response that we received at that time, to underpin why we now seek to meet the Deputy First Minister herself.

David, do you want to add to that?

David Torrance: No.

The Convener: Are we all content with those suggestions?

Members *indicated agreement.*

Annexe C

Petitioner submission of 14 August 2023

PE1933/M: Allow the Fornethy Survivors to access Scotland's Redress Scheme

The Fornethy Survivors wish to bring some matters to the Committee's attention regarding new information relevant to our cause.

The then Deputy First Minister stated in his submission letter of [6 February 2023](#):

"I do not believe that Fornethy survivors are precluded from applying for redress under the current eligibility criteria"

One of our survivors, having recently applied for redress, has received the following reply from the Scotland Redress Scheme on 28th July 2023:

"We note you have listed placements in Fornethy House, the kinship placement, Creagdhu and Fairfield children's homes. You have not detailed any allegations relating to Fairfield."

As you may be aware, the terms of the Redress Scheme restrict the types of placements which are considered relevant. They exclude short-term placements (i.e. for holiday or respite) and those involving family members, i.e. kinship placements.

Therefore the first two placements listed above will likely be disregarded by the panel who make a decision on your application."

As it clearly states – Fornethy will be **disregarded** by the panel which is in direct contradiction to Mr Swinney's response above? So regardless of how or why a child was placed in residential care (*"in locus parentis"*) and regardless of what abuse and horrors happened there – we **are** being denied that opportunity? This has shattered our confidence and trust.

The Citizen Participation and Public Petitions Committee noted the Deputy First Minister's response at their meeting on 3rd May 2023:

"The committee received a response from the then Deputy First Minister, John Swinney, which indicated that work was under way to test the

existing eligibility criteria and guidance in relation to Fornethy and that we would receive a further update when that analysis was completed”

Have the Scottish Government reported back to the Committee? Mr Swinney also referred to “privacy issues” being a barrier to the women but the above demonstrates this is irrelevant.

After much discussion, the Convener concluded:

“just in case the current Deputy First Minister is not familiar with all the issues for whatever reason, we restate some of what we said in the letter to the previous Deputy First Minister and the response that we received at that time, to underpin why we now seek to meet the Deputy First Minister herself.”

We await an update on the above.

We are grateful that our plight was debated in Parliament on [25th May 2023](#) and thank all of those who attended and contributed so forcefully. It was acknowledged over and over again that we deserve both justice and recognition and outlined the difficulties and barriers in qualifying for the Redress Scheme. Further to that debate, one of the perpetrators from the 1970’s is now facing prosecution; unfortunately, two of the main perpetrators have now died. This gives those of us who were at Fornethy during the 1960’s no opportunity to go through the court system, leaving redress as the only potentially viable option to have that justice and recognition.

Colin Smyth MSP, in his address to parliament, asked MSPs to consider a public enquiry, which we would totally support and now formally request. He describes the *“litany of failure”* in our attempts and being blocked time after time. Martin Whitfield MSP refers to these continued failures as a *“stain both on this Parliament and the Scottish Government”*.

Jamie Greene MSP stated: *“it was clear from the outset that redress would not be available to everyone and that it was clear that the scheme has shortcomings.”* He went on to say: *“I am deeply disappointed and angered by the fact that so many organisations that were responsible for abuse during that period did not even participate in the scheme – shame on them for hiding from the truths of their own pasts”*.

Brian Whittle MSP referred to the redress scheme breaking the United Nations Convention of the Rights of the Child law due to its limitations, an issue which may be tackled in future. Work is now underway with the Scottish Human Rights body and we are aware that our rights have been breached on many fronts. We will not leave one stone unturned.

We are also aware that the government appointed researcher put in place to access the Fornethy Records is not a specialist in archiving but a psychologist who was working on alcohol problems in children a long time ago. We question whether this was the best use of a resource to help us in this? We are still no further forward with our records and more questions arise from that. We are also working alongside Police Scotland who are actively investigating a wider concern around paedophile activity at Fornethy. They believe our accounts that some of us were taken from our beds in the night and subjected to sexual assault and inappropriate behaviour wounding our bodies and souls. There are questions around the role of the Glasgow Corporation at the time. On and on it goes. We need peace and we need justice.

The Fornethy Survivors have remained very focussed and have not lost any will or determination to see this through. We are more committed than ever after the long and arduous journey. There are committed MSPs who are on board with our plight and actively advocating for us and we thank them for putting their heads above the parapet and not turning a blind eye. We work with local media companies who are likewise committed to our cause. We continue to work through our trauma history. We are doing everything that we can.

As the saying goes “it’s not what people say it’s what they do”. How much longer do we have to wait for answers to questions already asked; how much longer to wait for a proper investigation into what has happened to our childhood records; how much longer to know that if redress is applied for it will not be disregarded on the basis that Fornethy survivors will not be disregarded by the panel?

Are we truly alone? Please, please DO the right thing. No more words. Actions. Please put the survivors of Fornethy at the heart of the Redress Scheme which after all was the intention when the scheme was devised – Survivors at the heart!

For and on behalf of all Fornethy Survivors

Further Information:

<https://www.sundaypost.com/fp/fornethy-house-police-probe/>

<https://www.thecourier.co.uk/fp/news/courts/4403890/fornethy-school-court-case/>

<https://www.ukcolumn.org/article/fornethy-house-beyond-the-pale>

<https://www.glasgowlive.co.uk/news/stories-glasgow-women-abused-fornethy-26993390.amp>

Deputy First Minister submission of 29 September 2023

PE1933/N: Allow the Fornethy Survivors to access Scotland's Redress Scheme

I write to provide you with an update following the letter sent to the Committee by my predecessor on 6 February 2023 and to address some of the matters raised by the Petitioners in their submission to the Committee on 14 August 2023.

The Scottish Government has appointed an independent researcher to make enquiries in respect of Fornethy House. Following advice from National Records of Scotland, a researcher has been appointed rather than an archivist. [redacted] began in post at the beginning of August and has a range of research experience.

As you will understand it would not be appropriate for me to comment on any individual application to Scotland's Redress Scheme however, I can advise that the Scottish Government has not informed any applicant that Fornethy House will be disregarded by the panel. I wish to reassure the petitioners that a key focus of [redacted]'s work will be to establish the circumstances in which children came to be placed in Fornethy House and to investigate the limited records and information relating to Fornethy House held by Glasgow City Council. [redacted] has

commenced her enquiries with Glasgow City Council and on 5 September, [redacted] met with some of the Fornethy Survivors to hear directly from them the challenges they have faced in accessing records. [redacted] would be very happy to meet with the Petitioners if they wish to do so.

I will provide the Committee with a further update upon conclusion of the enquiries noted above. It is anticipated this will be early in 2024. I would, of course, be happy to give evidence to the Committee at that time.

Yours sincerely,

SHONA ROBISON

Petitioner submission of 1 November 2023

PE1933/O: Allow the Fornethy Survivors to access Scotland's Redress Scheme

We thank the Deputy First Minister (DFM) for her response to our recent submissions of 7th March 2023 and 14th August 2023, providing the Fornethy Survivors with an update following the letter sent to the former DFM. The update does not cover all of our questions contained in these submissions. We wish to respond as follows:

The DFM's submission states: *"I can advise that the Scottish Government has not informed any applicant that Fornethy House will be disregarded by the Panel"*.

The previous DFM stated in his [submission dated 6 February 2023](#):

*"I do not believe that Fornethy survivors are precluded from applying for redress under the current eligibility criteria" **but** "the decision as to whether a redress payment is made is quite rightly a matter for Redress Scotland as the independent decision makers"*.

We feel there is incongruence here, since Redress Scotland have provided responses that state firmly that Fornethy (and another placement) are to be disregarded by the decision-making panel (as noted in our [submission of 14 August 2023](#)). Redress Scotland is a government-led initiative upon which the panel make their decisions

according to the criteria set and which does not extend far enough. We feel that we are hardly moving forward.

It seems from the above that the Scottish Government has relinquished its powers to intervene with the panel's independent decision-making process, and so handing it back to Redress Scotland whilst at the same time **it is** within the Scottish Government's power to widen the eligibility criteria. We have been asking and asking since April 2022 for this to happen and neither of these submissions are addressing the real issue which is a fair and equal opportunity for redress.

As said before, the intention of the Redress Scheme was to put survivors **at the heart of the scheme**, but the panel and the Scottish Government are not doing this. We are in the shadows yet again – ignored and silenced by ineffective processes and accountability, keeping us isolated – what a parallel to our time in Fornethy!

The redress criteria excludes Fornethy as a suitable placement for making an application. Our whole petition to allow us access has been about challenging the too limited criteria and calling on the Scottish Government to change this, yet it would appear the decision-making power is with the panel at Redress Scotland?

How do we go about challenging the panel when they will say the criteria is set by the Government under the powers of the Redress for Survivors Act 2021?

Are there any new proposals being put forward for the Redress Scheme?

If it is the case that Fornethy Survivors can apply for Redress as both DFMs indicate, then we go into that with one chance which, up until now, has failed us. There are many individuals now who wish to apply for redress but, again, the barriers within the application requirements are now proven to act against us having any success.

We have no confidence whatsoever that any of us will be successful without the Government making the changes to the parameters.

We also requested in our previous submissions updates on the following:

1. That it was agreed that the redress criteria would be tested and reported back to the Committee and then to us. The former DFM indicated that work was underway to test the existing eligibility, criteria and guidance related to Fornethy, has this happened?

This has been on-going since 2022. Our fear is that if this does eventually get sorted will we be out of a timeframe of which we are unaware of. Again, the lack of transparency around so many issues makes us even more insecure when our questions are not addressed. Many of our number are ageing and sick and some have died already without that justice or peace. Please don't deny those still living.

2. We did ask on the [7th June 2022](#):

We would like to know what the timescale actually is for someone in care to access the Redress Scheme? What is the cut-off date? Does eligibility within other organisations that are permitted redress allow for shorter periods that six to eight weeks?

And again, on the [7th March 2023](#) we asked once more:

what the timescale actually is for someone in care to access the Redress Scheme? What is the cut-off date please? This was raised in our June letter (PE1933/B) but remains unanswered.

Eight months difference?

As per the submission, a small group of the Survivors would like to take the opportunity to meet with the independent researcher to find out what, if any, progress has been made to date and we look forward to the evidence session with the Deputy First Minister taking place and await confirmation of the date of this.

Our petition was lodged on 19th April 2022 – it is now eighteen months on, and it seems we have only made very limited progress despite many communications and persistent efforts from us.

We continue relentlessly however. We protested again in George Square, Glasgow, on 1st November 2023, petitioning for our records; we are in communications now with a human rights organisation and

exploring whether to engage a lawyer to take our case forward. Press organisations are also covering our story and radio raising the profile of our plight.

We do not want to be here in another year's time fighting the same battle. Please urge the Scottish Government to do the right thing and widen the criteria so that all can apply and be treated equally and fairly.

Trust is sacred but our trust in this process is being eroded now over time, but we will not give up. We stand together. We are hurt and we are angry.

Deputy First Minister submission of 21 February 2024

PE1933/P: Allow the Fornethy Survivors to access Scotland's redress scheme

I write to you in connection with the above petition. As I stated in my letter to you dated 29 September 2023, the Scottish Government appointed an independent researcher to make enquiries in respect of Fornethy House. Those enquiries have now concluded and a copy of Dr Emma Fossey's report is at Annex A¹.

I will give careful consideration to the research report and look forward to discussing this matter further with you at the evidence session on Wednesday 20th March.

Yours sincerely,

SHONA ROBISON MSP

¹ Note from the Clerk: A copy of the report has been published and is available on the petition history webpage <https://www.parliament.scot/-/media/files/committees/citizen-participation-and-public-petitions-committee/correspondence/2022/pe1933/enquiries-into-fornthey-house-residential-school-report.pdf>

Professor Diane McAdie submission of 11 March 2024

PE1933/R: Allow the Fornethy Survivors to access Scotland's redress scheme

As the appointed researcher of the Fornethy Survivors Group, I have been asked by members of the Group to make you aware of the evidence I have gathered regarding petition PE1933: Allow the Fornethy Survivors to access Scotland's redress scheme, which I understand is being discussed at your Committee meeting on 20th March 2024. I am aware that the Committee will have been provided with the [report by Dr Emma Fossey](#), the Scottish Government's appointed researcher.

Two overarching points are essential for supporting the Group's petition:

1. Fornethy pupils were in official attendance at a residential school governed by Corporation of Glasgow or Strathclyde Regional Council. They were not in a convalescent home, respite facility, or summer holiday camp.

There is no actual evidence that Fornethy Residential School was for convalescence after an illness, although it is one of the officially provided reasons. There is more evidence that pupils were sent to 'convalescent' schools such as Fornethy because they were from deprived backgrounds.

Glasgow's 1945 Scheme of Residential Education (see National Records of Scotland file ED48/932) set up short-term residential schools under the Day Schools (Scotland) Code 1939 and the Education (Scotland) Act 1908. Hillfoot Residential School was under this scheme, and the Scottish Education Department assigned Number 6983 to Hillfoot.

The Progress Report on the Work of the Education Committee 1953-1955 said:

'In May, 1955, with the approval of the Secretary of State, Fornethy House, Alyth, Perthshire, became the property of the

Corporation as a free gift to be used as a residential school. When the necessary alterations are completed, pupils will be transferred from Hillfoot Residential School which will then be used as a residential school for mentally handicapped pupils...'

The Corporation of Glasgow's Education Committee minutes from 7th September, 1960, stated: 'With reference to meeting of date 23rd March, 1955 (Print No. 25, page 1913), agreeing that Fornethy Residential School be used to accommodate Protestant convalescent girls at present accommodated in Hillfoot Residential School, the Director reported, for information, that the new school had come into operation on 30th August, 1960'.

The Corporation of Glasgow Education Department's Handbook for Regulations and Information for Head Teachers explained how pupils were removed from the register at their primary school, added to the Fornethy register whilst in attendance at Fornethy, and then added back to their local school's register upon returning to Glasgow.

Also, according to this Handbook, Fornethy pupils were 'removed from the custody of their parents' and placed under the care of the Local Authority whilst at Fornethy.

2. Local Authorities could override or coerce parents' decisions regarding residential school attendance by law.

Under the Children Act 1948, Local Authorities [could vote to remove children](#) from their homes because a 'person is unfit to have the care of the child by reason of unsoundness of mind or mental deficiency or by reason of his habits or mode of life'. The Care of Children (Scotland) Act 1948 'introduced a duty of care on the local council; prior to this the liabilities lay with the carer in respect of powers and rights. This was further evidenced in the Social Work (Scotland) Act 1968' and this power was not removed until the Children (Scotland) Act 1995 ([link](#)).

The possibility of coercion or mandated 'in loco parentis' action is plausible, especially given the documented history of deprived girls being chosen for Fornethy. The Director of Education stated in the context of the Scheme for the Provision of Residential Schools (NRS ED48/932): 'Education as a self-contained community makes it possible

for precept to be supplemented by example and, still more important, for children to have an opportunity of living and acting as good citizens should’.

Three options for addressing the contradictory criteria.

The purpose of redress for historic institutional child abuse should be to benefit survivors. Currently, the eligibility guidelines specifically exclude survivors of short-term residential school abuse. This is unjust; it should not matter whether children were abused for a month or several years. Three possible options appear below.

Option 1. Modify the ‘School-related accommodation’ institution type.

Fornethy survivors could qualify under the ‘School-related accommodation’ institution type on [page 6](#): ‘an establishment providing residential accommodation for children for the purposes of, or in connection with, their attendance at school’.

Regardless of the reason they were sent there, pupils went to Fornethy Residential School for the purpose of attending school. The only part against Fornethy survivors is the ‘private school’ requirement in point 27. This could be modified.

Option 2. Modify the existing ‘Short-term care’ criteria.

Page 7 states, ‘In essence, the scheme focuses on abuse in care settings where a public authority or a voluntary organisation exercising public functions, rather than the child’s family, became primarily responsible for the day to day care of the child’.

Fornethy survivors **do** meet the requirement for this stated ‘essence’. It says nothing about long-term care being the focus. They were also isolated with limited or no contact with their families, as visiting was not allowed per the Head Teachers Handbook.

A contradiction occurs on page 8: ‘Whilst the abuse of children in all circumstances is wrong and harmful, the exclusion of those abused in short-term respite or holiday care is in-keeping with the core purpose of the redress scheme, which is primarily for those vulnerable children who

were in ***long-term care*** [emphasis added], often isolated with limited or no contact with their families’.

Simply removing the ‘long-term care’ requirement would make Fornethy survivors eligible because they were not in respite or holiday care.

Option 3. Create new ‘Short-term care’ criteria.

By the Scottish Government’s own admission in the criteria, all child abuse is ‘wrong and harmful’. No survivors should be denied access to redress simply because their abuse was for a relatively short period of time.

Therefore, a third option would be to provide short-term institutional abuse survivors the ability to apply for redress with a new, separate set of criteria.