



Northern Ireland
Assembly

Committee for the Office of the First Minister
and deputy First Minister

OFFICIAL REPORT (Hansard)

Inquiry into Historical Institutional Abuse Bill:
Draft Report

24 October 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Mike Nesbitt (Chairperson)
Mr Chris Lyttle (Deputy Chairperson)
Mr Colum Eastwood
Mr Paul Givan
Mr John McCallister
Ms Bronwyn McGahan
Mr George Robinson

The Chairperson: The initial draft of the report on the Historical Institutional Abuse Bill was considered last week. We then asked the Clerk to provide us with an updated draft, with all the proposed changes tracked. A copy is being tabled as we speak. Some of the changes are tracked in red and some in blue. That simply indicates that different members of the Committee staff made the changes; it is not significant in that sense.

The Committee Clerk: Sorry, members. The handout is really just the covering pages and the appendices at the back, and then the actual document is at tab 5.

The Chairperson: Right. So, we need to just walk through this, members. There are two more notes. In section 2, passages have been inserted to reflect the Committee's consideration of amendments that were brought forward last week. Section 3 is entirely new, because it reflects decisions that were taken during the formal clause-by-clause consideration that we undertook last week.

The draft contains two recommendations in red type on issues where the Committee may — and I stress may — wish to consider making recommendations to Ministers. Members also suggested changes to one of the recommendations and agreed to come back to those recommendations this week. That refers to paragraphs 106-13, but perhaps we could start at the beginning.

The Committee Clerk: Paragraphs 106 and 113.

The Chairperson: OK. We will start at the beginning. Page 1 covers paragraphs 1 to 5. You can see that there is just the one change in red: a capital H for "Historical". All happy?

Members indicated assent.

The Chairperson: Page 2, paragraphs 6 to 9. OK?

Members indicated assent.

The Chairperson: Page 3, paragraphs 10-16?

Members indicated assent.

The Chairperson: Page 4, paragraphs 17 to 24? There was just one date change.

Members indicated assent.

The Chairperson: Next page, paragraphs 25 to 30? There were small changes.

Members indicated assent.

The Chairperson: Paragraphs 31 to 37?

Members indicated assent.

The Chairperson: Paragraphs 38 to 43?

Members indicated assent.

The Chairperson: Paragraphs 44 to 50?

Members indicated assent.

The Chairperson: Paragraphs 51 to 58?

Members indicated assent.

The Chairperson: Paragraphs 59 to 63?

Members indicated assent.

The Chairperson: Paragraphs 64 to 69?

Members indicated assent.

The Chairperson: Paragraphs 70 to 77?

Members indicated assent.

The Chairperson: Paragraphs 78 to 83?

Members indicated assent.

The Chairperson: Paragraphs 84 to 92?

Members indicated assent.

The Chairperson: Paragraphs 93 to 99?

Members indicated assent.

The Chairperson: The next one is the first one where we perhaps need to have a discussion:

"At its meeting on 17 October ... the Department advised that it would not be making any further amendments to the Terms of Reference in this regard."

That was with reference to the potential fifth specific bullet point on changes to prevent future abuse. It seems that the majority of people were content with where the Department stands. Are we content?

Members indicated assent.

The Chairperson: The next page is paragraphs 104 to 108.

Members indicated assent.

The Chairperson: The next page is paragraphs 109 to 114. You will see that, at paragraph 113, we have a potential recommendation to say that:

"The Committee recommends that OFMDFM gives active consideration to providing those victims and survivors of abuse who fall outside the scope of the Inquiry into Historical Institutional Abuse with appropriate mechanisms of acknowledgement and inquiry in relation to the abuse they suffered."

Mr Givan: I wanted a bit more time to reflect on that. I very much have the same concern around people who have suffered abuse. My issue is about raising an expectation that may not be deliverable. This recommendation may do that, because there are a number of areas there. One, it is

so broad in nature. Where will be the areas that fell outside the scope of this? That could be everything. What was the nature of that abuse, within whatever organisation? My concern is that, in the absence of being specific, we could make it so broad that you could almost say, "Regardless of what abuse you have suffered, the Executive should establish a mechanism to deal with that." That is more my concern about creating an expectation around something, which may be counterproductive. So I have issues around that recommendation.

The Chairperson: I certainly accept your concern. It is so broad. At least, with institutional abuse, you can go to institutions, and you can go to their files and try to establish some sort of paper trail, some body of evidence, whereas this could be just an endless series of verbal allegations. But in terms of expectations, probably as we have gone through this week by week, that expectation may well have already been created in the minds of victims who are not covered by the inquiry. Is there a form of words that would be less concerning?

Mr Givan: I make all those comments of the — whatever we think that we can do, we should do.

The Chairperson: Yes; that is accepted.

Mr Givan: However, I acknowledge that there are times when we will not be able to do what people will do. That recommendation does not sit quite right in that respect. I think that we can all agree to the objective, but the problem is with how we would go about doing that without knowing exactly what areas of abuse and what organisations we are talking about. It is so broad that anyone will be able to go, "I suffered abuse, and this Committee has recommended that there should be a mechanism in place for me to have that dealt with." The inquiry was set up very clearly to look at systematic institutional failure. Therefore, quite rightly, that is the area that we can look at, and we know exactly what we are looking at. This recommendation would mean that we do not know what we would look at.

The Chairperson: The point is absolutely valid. In some of the evidence that was taken before you came on the Committee, people were making the point very starkly that this does not cover everybody. Would it be appropriate to say, rather than "recommends", that the Committee "acknowledges that not all victims and survivors of abuse have fallen within the scope of the inquiry"?

Mr Givan: I have no issue with acknowledging the fact that that has been raised and that their issues do not fall within the scope of the inquiry.

The Chairperson: It is then up to somebody else to raise the expectation that something would be done.

Mr Givan: I have no issue with us acknowledging that there are clearly people who are outside the scope; it is the recommendation that a mechanism should be put in.

The Chairperson: In fairness, Paul, it states that the Committee recommends that OFMDFM "gives active consideration". For a victim, that may be splitting hairs.

Mr Eastwood: I completely understand where Paul is coming from. The example that has been given a number of times is that of Father Brendan Smyth. Some of his victims will have fallen within the terms of the inquiry and others outside. I suppose it is about the definition of "institution". It is very difficult to get the form of words that you are looking for, but we do need to find a way of showing those people whose abuse may not be covered by this particular inquiry but who did face institutions and were abused by different forms of institutions, I suppose by the fact that the truth never came out — I am trying to choose my words very carefully, but we do need to make some movement towards beginning the process of trying to not only acknowledge that those people exist but acknowledge that they need some of mechanism. I completely get what Paul is saying. It is not that easy to put it in a sentence, because it could be very wide, but we need to be aware that there are people out there who do not just fall neatly into the inquiry but who maybe fall just outside of it. I do not have a form of words to propose.

Ms McGahan: I think something similar to what was said before. Our party would agree to the objective of the recommendation, but is very concerned that the terms of reference would have to be so wide-ranging that it could take 20-years-plus to investigate it.

The Committee Clerk: Possible wording might be: "the Committee notes that there are survivors of abuse who will fall outside the scope of the inquiry into historical institutional abuse", and then perhaps something to say that the Committee will write to the Department or seek clarity from the Department in relation to those victims. The Committee can subsequently agree on how it wants to deal with that.

Mr Givan: Rather than "notes", I would prefer "acknowledges", because it is probably a little bit warmer than just noting.

The Chairperson: Run that past us again.

The Committee Clerk: It will probably be different the second time around. "The Committee acknowledges that there are survivors of abuse who fall outside the scope of the inquiry into historical institutional abuse and will seek clarification from the Department in relation to such victims."

The Chairperson: I think we can all agree up to the "and".

Mr Givan: It is probably a given that you are specifically referring to the victims who have come forward as part of this process.

The Chairperson: How many will come forward during the course of the inquiry and say that they were abused but they do not qualify?

Ms McGahan: Equally, those people should be encouraged to report that to the PSNI.

The Chairperson: So it is the action point.

Mr Givan: The "and" is followed with "will pursue this with OFMDFM", if you want to, rather than "will seek clarification".

The Chairperson: OK. "Will pursue"?

Mr Givan: "And will engage with the Department on this issue".

Mr Eastwood: What are we actually asking it to do? Are we are asking it to scope out if there are any other mechanisms that can be created?

The Chairperson: Are we asking it to scope or are we asking it just to monitor, say, over the course of this inquiry, how many people come forward who claim to have been abused but do not fall within the scope of the inquiry, with a view to it starting to scope if they hit some critical number? There are a number of options, Colum. I think the key thing at this point is that we acknowledge those victims who are outside the scope, who know we know that and who would very much notice if we did not acknowledge them.

Mr Givan: I agree with you.

The Chairperson: So we are on the same page here. Sorry; once more.

The Committee Clerk: "The Committee acknowledges that there are victims and survivors of abuse who fall outside the scope of the inquiry into historical institutional abuse, and will engage with OFMDFM on this issue."

Mr Givan: I am content with that.

Mr Eastwood: It is probably —

Mr G Robinson: As near as you will get.

Mr Lyttle: Unless you want to substitute it with "engage with OFMDFM as to what mechanisms of an acknowledgement inquiry to the abuse they suffered could be provided." Perhaps that is making it too specific and raising expectations too far, is it?

Mr Givan: Sorry, Chris?

Mr Lyttle: The original intention was to, in a form of words, make some request for the Department to consider what mechanisms of an acknowledgement inquiry could be provided for that group of people. Is that the issue that is raising expectation too far, from your point of view?

Mr Givan: Yes. That would narrow it down to those who have come forward as part of this. My initial issue with that was with the type of victim that we were talking about. It was that broad; a victim of whatever type of abuse of whatever nature was undefined, so that focuses on the victims who came forward to the Committee. I accept that I have not been privy to that. It is important that we acknowledge that we are going to do something on that front. However, I do not want to raise an expectation. In politics, under-promise and over-deliver has been a philosophy.

The Chairperson: Absolutely. If we were taking this forward, surely the first thing that we would want to do is try to define how many other categories of victim there actually are.

Mr Givan: Do you want to mention somewhere that, as the inquiry unfolds, there may be more who come forward who find that they are outside the scope?

The Chairperson: Yes.

Mr Givan: The Committee has already identified that. As you pointed out, there may well be more. It is important that we acknowledge that we want something to be done.

The Committee Clerk: It was not simply victims who came to give evidence here. There were submissions on behalf of victims from organisations that engaged with them over the years and identified other categories of victim.

The Chairperson: The point is well made: we do not know how many people are going to come forward who qualify and do not qualify to be included in this.

The Committee Clerk: The concern of victims' groups will probably be that the victims who fall outside the category will not come forward to the acknowledgement forum and that the inquiry will not be able to scope how many other victims there are.

Mr Eastwood: If the inquiry and the Department do their job right in terms of communicating this to the outside world, then people will not come forward, or very few will come forward, if they believe that they are outside the scope.

The Chairperson: That is another issue. Do you encourage people —

Mr Eastwood: If you tie it to the inquiry, you are kind of —

The Chairperson: Yes. Right. Hopefully, one last time.

The Committee Clerk: "That the Committee acknowledges that there are survivors of abuse who fall outside the scope of the inquiry into historical institutional abuse and will engage with OFMDFM on this issue", or "engage further with OFMDFM on this issue".

The Chairperson: Yes; "engage further", because we have mentioned it. All content?

Members indicated assent.

The Chairperson: OK. Thank you. That is paragraphs 109 to 114. Paragraphs 115 to 123?

Members indicated assent.

The Chairperson: Thank you. Paragraphs 124 to 126?

Members indicated assent.

The Chairperson: Thank you. Paragraphs 127 and 128?

Members indicated assent.

The Chairperson: Thank you, Paragraphs 129 and 130?

Members indicated assent.

The Chairperson: Thank you. Paragraphs 131 to 133?

Members indicated assent.

The Chairperson: Thank you. Paragraphs 134-6?

Members indicated assent.

The Chairperson: Paragraph 137, on its own?

Members indicated assent.

The Chairperson: Paragraphs 138 to 140?

Members indicated assent.

The Chairperson: Paragraph 141, on its own?

Members indicated assent.

The Chairperson: And paragraph 142 on its own?

Members indicated assent.

The Chairperson: Paragraphs 143 to 145?

Members indicated assent.

The Chairperson: Paragraphs 146 and 147?

Members indicated assent.

The Chairperson: Paragraphs 148 and 149?

Members indicated assent.

The Chairperson: Paragraphs 150 to 153?

Members indicated assent.

The Chairperson: Paragraphs 154 to 156?

Members indicated assent.

The Chairperson: Paragraphs 157 and 158?

Members indicated assent.

The Chairperson: And paragraphs 159 and 160?

Members indicated assent.

The Committee Clerk: Can I just take you back to paragraph 106, with a recommendation. It is tracked in blue instead of red.

Mr Eastwood: Paragraph 106, Alyn?

The Chairperson: Paragraph 106:

"The Committee recommends that First Minister and deputy First Minister facilitate and expedite Executive discussion and agreement on the nature and extent of potential redress upon receipt of the Inquiry's recommendations in that regard."

It is wrong to look at the victims and survivors who will be engaged in the process as a homogenous group, but they will all, presumably, have some idea of what they want out of it. Some will want acknowledgement, some will want an apology and some might want something more tangible, but I think we can assume that redress, whatever way they define it, is what they look for, and the process,

to some extent, will be hollow without it. Are we content with that recommendation, which is purely that the Ministers basically get on with it once they have received the report?

Mr Eastwood: I think it should be before that, but I have already lost that argument.

The Chairperson: You have.

Mr Lyttle: It is an effort to mitigate the fact that there is not going to be an interim report and to argue that the final report should be forthcoming as quickly as possible.

The Chairperson: I think we are all content. So, the content agreed sits in context with the papers that Committee staff have circulated to you — the title page, the page detailing Committee powers and membership, and our list of abbreviations. There are appendices. Do members agree that appendices 1 to 6 be included in the report?

Members indicated assent.

The Chairperson: If everyone is content with that bundle that was presented to you, we will move to the key question. Are members content that the Committee's report on the Inquiry into Historical Institutional Abuse Bill be printed?

Members indicated assent.

The Chairperson: That is a consensus; thank you. And are you content for me to approve that part of the minutes of today's meeting which deals with the Bill for inclusion in appendix 1?

Members indicated assent.

The Chairperson: That concludes our Committee Stage and our consideration of the Inquiry into Historical Institutional Abuse Bill.