



Northern Ireland
Assembly

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

OFFICIAL REPORT (Hansard)

Inquiry into Historical Institutional Abuse Bill:
Contact NI/NEXUS/ Victim Support Briefing

12 September 2012

NORTHERN IRELAND ASSEMBLY

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

Inquiry into Historical Institutional Abuse Bill: Contact NI/NEXUS/ Victim Support
Briefing

12 September 2012

Members present for all or part of the proceedings:

Mr Mike Nesbitt (Chairperson)
Mr Chris Lyttle (Deputy Chairperson)
Mr Thomas Buchanan
Mr Trevor Clarke
Mr Colum Eastwood
Miss Megan Fearon
Mr William Humphrey
Mr Alex Maskey
Ms Bronwyn McGahan
Mr George Robinson

Witnesses:

Mr Fergus Cumiskey	Contact NI
Ms Pam Hunter	NEXUS Institute
Ms Susan Reid	Victim Support

The Chairperson: Next we have a tripartite approach. We have Pam Hunter from NEXUS, Fergus Cumiskey from Contact NI and Susan Reid from Victim Support. You are all very welcome. Susan, you are in the middle, does that mean that you are presenting?

Ms Susan Reid (Victim Support): Yes. Thank you very much for the opportunity to discuss the draft Bill. My name is Susan Reid, and I have the role of chief executive of Victim Support NI. With me today are Pam Hunter, the chief executive of NEXUS, and Fergus Cumiskey, the director of Contact. Our three organisations have been working together on this issue.

First, we acknowledge that those victims who have come forward have had their views respected and reflected in the drafting of the Bill. Although we commend that, we also wish to draw particular attention to the needs of those who are still holding their painful secrets. We urge you to ensure that no further harm or hurt is inadvertently enacted by the state as a result of barriers to participation — barriers related to their age or to the particular circumstances of their experience. That is why we encourage consideration of devolving discretionary powers to the inquiry panel chair to alter the terms of reference to address unforeseen issues as they arise. Echoing the European directive on victims of crime, particularly articles 17 to 23, we ask that consideration be given to how victims will be protected from:

"retaliation, intimidation, repeat or further victimisation",

including:

"measures to ensure that the risk of psychological or emotional harm to victims during questioning or when testifying is minimised and their safety and dignity are secured."

We believe it to be essential that, where sufficient evidence exists and a person or persons can be identified, the process of criminal justice can be followed.

We seek assurance that the process of inquiry will not be an obstacle to a case being progressed. We are disappointed that the decision to make compensation will be postponed until the inquiry has concluded and wish to highlight the significant benefit to victims in being believed by representatives of the state. We draw a parallel with the criminal injury compensation scheme, the context of which is a different burden of proof, which is rightly lower than that required in court. We draw your attention to compensation as an important symbol of an apology by the state — an apology and recognition of harm done for those older individuals who have lived with the burden of their experience for so long. It seems unnecessarily cruel to have to wait until after the inquiry for a decision on whether compensation will be made.

We see the inquiry as a significant step by the Assembly, not just to recognise the individuals who have been harmed but to learn from the mistakes of the past and, as far as possible, take steps to ensure that the harm cannot be repeated in the future. To that end, we urge that the inquiry work to the definition of abuse outlined in articles 19 and 34 of the UN Convention on the Rights of the Child and that the inquiry panel should have the authority to make recommendations on changes to law, changes to administrative procedures and changes to practice that would ameliorate the risk of abuse in the future.

I began by recognising the work that has gone into the Bill to date and the need to ensure that those who have not been heard to date are encouraged and supported to come forward. I will now hand over to Pam Hunter to speak on that theme.

Ms Pam Hunter (NEXUS Institute): Our collective services between Victim Support, NEXUS and Contact NI work with many clients who express inherent mistrust of statutory services. The Committee and the roll-out of the review, have the unique opportunity to address and correct that mistrust. However, to do so, it is critical to remove barriers and address concerns that may promote cynicism and mistrust. The onus is on you to create an open, accessible and healthy process to help to redress the crimes committed and to support historical abuse survivors.

We highlighted two such barriers with the inquiry in our joint letter to the Committee dated 23 May. First, there is the 1945 date restriction. The 1945 limit serves no purpose other than to discriminate against our aging population. The inquiry Bill notes discretionary provision hearings for those cases prior to 1945, which we appreciate. However, there is an inference that there may be no follow-up investigation. We request reconsideration of the inquiry's historical scope, enabling equal consideration for all historical abuse survivors.

The second barrier is the location restriction. The current review is limited to state-controlled residential institutions. Queen's University recently completed an independent study of NEXUS clients, all of whom are survivors of sexual violence and abuse, and found that 60% of sexual abuse happens within the family home. With that stark finding in mind, we request the Committee to consider the inclusion of all boarding schools, including day attendees, all day school provision and fostering and adoption services within the scope of the inquiry.

The historical scope and location restrictions detailed in the Bill have the potential to create a hierarchy of survivor legitimacy. That represents a significant credibility risk to the entire inquiry purpose, with the potential to exclude many vulnerable groups and individuals who suffered dreadful childhood abuse. That risk may undermine the good intentions of the review and severely limit the scope and relevance of the inquiry's recommendations, conclusions and future strategies.

Our understanding is that the principal aim of the inquiry is to establish truth, learn lessons from the past and prevent future abuse of all children, while acknowledging the suffering of survivors. We are concerned that the current review limitations may undermine that excellent purpose and steep the inquiry in controversy. That will then alienate some survivors from taking part when conciliation and

justice for all historical survivors could well be within the inquiry's grasp. I will now pass over to Fergus Cumiskey, the director of Contact NI.

Mr Fergus Cumiskey (Contact NI): Very briefly, our key message today is that to omit any sector from the historical childhood abuse inquiry will confirm a sense of victimhood hierarchy, risking further isolation, splitting and discouragement from support seeking and redress.

The recent learning from the acknowledgement and redress process completed in the South of Ireland accentuated the sense of grievance driving the compensation agenda. The downside of that overemphasis is that it also magnified the sense of isolation, splitting and victimhood for those who still felt that they could not come forward, despite compensation payouts averaging more than €60,000. That was especially apparent for those who were not harmed by state and religious institutions but subjected to abuse at home or neglect and harm within or close to home. It is our understanding that compensation payouts in the South were not subject to conventional proof requirements. That became a corrosive issue, undermining the prospect for some of criminal prosecution and alienation for others who saw the compensation issue as an unhelpful distraction.

We also wish to reflect with you on the necessity for a wider childhood violence sexual prevalence study. We contend that evidence-based practice can only follow policy informed by high-quality, systematic research. We are concerned that a narrow focus on historical institutional abuse will inadvertently delay our understanding and prevention strategies by some years when there is a prime opportunity now to unite the historical abuse redress and current abuse prevention and child protection movement by the scope and understanding of the inquiry Bill.

Although we accept that the current inquiry focus is important, unfortunately, in its current form, it tends to distract public understanding to the past, deflecting from the fact that many children remain vulnerable to significant harm right now at home and close to home.

As a policy and practice community, we would not fully understand how to adequately protect all children from harm if we did not take the opportunity to engage in a wider childhood abuse prevalence study for Northern Ireland as an immediate follow-up to the historical childhood abuse inquiry. Without a childhood abuse prevalence study akin to the Sexual Abuse and Violence in Ireland (SAVI) 2002 report in the South, we will continue policy-blind, informed by studies from other places and relying on speculation for the relevance of key community context factors, severely hampering abuse prevention strategy policy and practice development for children in Northern Ireland.

Finally, we strongly advocate the adoption of a survivor strengths-based approach, enabling the inquiry to identify incidences and learn from resilience testimonies, where survivors of childhood victimisation went on to create a life worth living, making meaning from coping with the trauma of childhood adversity through family, community and, occasionally, therapy support, affirming that victimisation does not always result in catastrophic psychological consequences, and inspiring an optimistic recovery narrative for the inquiry and the support services it creates. A dedicated inquiry reporting communications strategy will be an important counter to the ever-present risk of the entire inquiry process being dogged by press leaks, conjecture and withering criticism, as per the current dominant narrative.

We are very happy to field any questions and respond to comments that you may have about our presentation.

The Chairperson: I thank all three of you very much. Fergus, I am quite taken by the way in which you finished with a positive, because sometimes, when we look at victims and survivors issues, we tend to assume that the picture is all bleak, and it does not need to be.

Mr Cumiskey: Quite.

The Chairperson: Pam, we heard from Michael O'Flaherty of the Northern Ireland Human Rights Commission last week, and he was really quite set in his opinion that we should not broaden the inquiry and that we should get on with what we have got, being mindful that it is not the full deal, as it were. Amnesty International seems to be on the same road, but you are not.

Ms Hunter: If memory serves me right, Amnesty was on the same road in not including the clerical side of things, but was on the same road in looking at the date restrictions. Before me, their

representatives talked about lengthening the scope of the inquiry to before 1945 and up until only a few years ago.

The Chairperson: If we are talking about who would be included, you have mentioned boarding schools.

Ms Hunter: Oh, yes, OK.

Mr Cumiskey: To the abuse survivor community, Mike, the hair-splitting distinctions are irrelevant. They happen to be the necessity of the bureaucratic and legal requirements that you are facing. You have a once-in-a-generation opportunity to make a clear commitment to abuse survivors from wherever they emanate, particularly those who were violated in institutions run by the state, but also those who were violated in other institutions that were receiving part-funding from the state and acknowledgement and endorsement from the state.

It is as though we could inadvertently gag a whole host of community contexts by going with the narrowness of the Bill as it is presented.

The Chairperson: Fergus, I think that we are of a mind that we want to get on with it, and we want what we do in this phase to be right, but that this is only a phase and there will be other people for whom there will need to be another process and another phase. We will just try to get our heads around the extent to which we amend what we have got.

For example, I can say very clearly that I think that 1945 is a no-no as a starting point and that we should be starting at the inception of the state. It is about teasing out the extent to which we need to adjust the current process, bearing in mind that we now seem all to agree that there will be a need for another process later.

Mr Maskey: Thank you for your presentation and the work that you are putting into this, particularly in support of victims and survivors.

I am a bit concerned, because you seem to be suggesting — and I can understand the reason for it — that this inquiry would be extended to every incident of child sexual abuse. I may be wrong, but someone may have mentioned fostering circumstances as well.

The intention of the Bill was to deal with specific circumstances and to try to get an inquiry up and running as quickly as possible in order to address those heinous crimes that were committed against a lot of people.

As I understand it, the adoption of the 1945 starting point for the inquiry was based on a legal opinion and all the rest of it. We have already covered that, and most members seem to be of the view that we should get around that. I hope that that will be the case, whatever about the legal opinion and its veracity.

What I am picking up from you loud and clear, however, is that you are saying that the inquiry needs to be much more broadly extended to cover every example of abuse. Is that the case? Is that what you are actually saying?

Mr Cumiskey: No, it is not exactly what we are saying. We are saying that it should cover institutional abuse, whatever the institution, be it a Church, state or quasi-Church or state institution. We are not talking about abuse in families, per se. We are looking at adoption and fostering specifically and the whole school context — the boarding and day school context — which had both statutory and clerical imprimatur.

Ms Reid: Building on that, we are —

Mr Maskey: I am sorry, Susan; I apologise. I am not sure where the distinction lies. All those examples would have been criminal acts and should have been subject to criminal law. Obviously, I know that there are a lot of reasons why that did not happen in a lot of cases. I am just concerned — and we will have to make our judgements on these in due course — that you are, in effect, suggesting that this should be vastly widened out. You might be right. I am just trying to get your argument clear in my mind.

Mr Cumiskey: It may seem like a vast widening, but our perspective is that the inquiry needs to be comprehensive. The Lifeline service that I lead has worked with 25,000 people on whom all sorts of crises and drama have impacted. In the past five years, a huge proportion of them have reported child abuse in contexts where they were at their most vulnerable, especially when they were removed from their family of origin and placed in a fostering, adoption, school, boarding school or institutional context. It is not that broad a widening. Very few will come forward from all those constituencies. However, everybody will watch very carefully to see how comprehensive and inclusive the Bill and inquiry are. People will vote with their feet. The people who are representative of those who have experienced abuse of that kind will have to find a way to commit to engage in this. You will always have a representative core coming forward to an inquiry. Not everybody who suffers that form of abuse will come forward. You should not limit it to one particular tier of abuse, when there really is a genuine and sincere opportunity to be inclusive at this point. This will not overly complicate the process or drag it on for ever. It puts out a clear message to the whole community of those who suffered in those circumstances that their suffering is every bit as valid as the next person's and that their recovery is just as important to the powers that be and to the community here as anybody else's.

Mr Eastwood: I want to go on a slightly different track. I think that most of us agree on 1945 as the appropriate date. For my information, I am trying to bear down on the 1995 cut-off point. You have not really mentioned it in your submission. Fergus, you said that there are very real lessons to learn and that children are still at risk. I am trying to work out your view on the upper limit.

Mr Cumiskey: The upper limit is fine with us: the year 1995 is a good starting point. It ensures that everybody you work with is an adult who has had the opportunity to reflect on the experience. What we are also promoting — you may have noted this in some of things that we said towards the end of our presentation — is the need for a prevalence study on childhood sexual abuse of those who have just become adults now. In 2002, the SAVI report in the Republic included people who were 18 and over at the time the study began. If we were to follow that example, that would bring us from 1995 up to now. If you make that commitment at the outset, you are saying that absolutely nobody who was impacted by childhood sexual violence and abuse is being neglected by the House. It is critical that that is the message that gets out to people.

Mr Eastwood: You would not include them in the actual —

Mr Cumiskey: No, this is a historical inquiry, and we think that it has to have a limit. The most local time limit of 1995 seems apt to us. There seems to be consensus that the earlier suggested limit is not apt.

Ms Reid: Building on that from a practice base, which I think is where we are all coming from, we have seen before the consequences of public communications and initiatives and the ripple effect that that has had on people. Therefore, as well as the scope of the inquiry and how that is communicated and promoted to the public at large, I think that thought needs to be given to how we communicate with victims of other types of abuse, so that they are clear that they have adequate information on how to access the support systems available. We do not want people to get to crisis point before they come forward and access support and information. So I think that there are two important strands: the inquiry, which we respect and value; and the need to communicate and to make sure that good information is available to others who may not fall within its scope.

Mr Cumiskey: The last thing you want is to have is a counter-inquiry emerging in six months' time. There is every possibility that that will occur. You also want all the other support agencies, in the community and voluntary sector, and in the statutory sector, collaborating on this. There needs to be a single, unified voice on the issue, and there is an opportunity for that.

Mr Lyttle: Fergus, Susan and Pam, you are very welcome. I found your suggestions and contributions very helpful. As a Committee, we are, ultimately, trying to drill down into practical ways in which we can enhance the Bill at this stage. Whether we like it or not, and regardless of whether it was the intention of parties, the 1945 cut-off point seems to have caused difficulty and, potentially, trauma for people who have been excluded by the setting of that date. Regardless of whether that was the intention, I think that we have to recognise that. There seems to be consensus that that is one issue that we have to address. The comments on the prevalence study are also helpful, because the upper limit is the other issue. If I am wrong, members may correct me, but the explanation that officials gave for the choice of that date was the inherent assumption that child protection matters

have been got right from that date on. It sounds as though you are suggesting that there may be merit in double-checking that such an assertion is accurate. It would be useful to hear from you on that.

If memory serves me correctly, the Human Rights Commissioner suggested that it would be difficult to add other institutions or state-funded areas to the Bill and that there might be merit in considering whether other legislation could be easily created to include such people. In answer to my parting question, the professor was not clear on whether that legislation could feed into this process. We need to explore that, rather than just ruling it out completely. I am interested in your feedback on those points.

Mr Cumiskey: As is always the case, no matter where they are, the legal eagles will do their best to limit the inquiry, and others will push to expand it. We are part of the expansion consciousness. If it is feasible and doable, it should be done. The risks of the inquiry's not being comprehensive are potentially catastrophic to its purpose: to create acknowledgement and redress.

We feel that the prevalence study is an opportunity to have knock-on discussions in other parts of the Assembly about committing resources to engage with this issue, because it is a big, deep-seated issue that goes to the heart of some of the silences and taboos in our culture over generations, and it was further masked by the era of political conflict. In truth, we see this as being part of creating the new circumstances of a place where people can live at peace with one other and their histories. This is part of our blind history. Until we have a qualitative, comprehensive prevalence study of childhood sexual abuse, we will have no idea about its incidence, notwithstanding what the Department of Health and other Departments will offer you in relation to what has happened since 1945.

Ms Hunter: Also, many people will be watching how the Bill is rolled out, as it is, potentially, the first time for something like this in abuse scenarios. So it is important to get it right now because there will not be a second chance. People will be put off if it is not right this time. That rolls out even into how the inquiry will take place — what support mechanisms will there be for the victims who come forward to divulge their stories for the first time.

The Chairperson: I take your point, Pam, but nobody sets out to get it wrong. We will have to make a judgement on whether to expand this inquiry, go for a second one, or whatever.

Mr Clarke: I want to follow on from the comments about expanding the inquiry. Last week, I was clear in my mind that some of what Fergus has said today would be classified as an expansion. I am conscious that some of the people in the Public Gallery today were also here last week, and we could feel how emotional they were about how long it has taken them to get to this date. Last week, they told us very clearly that they did not want this process to be slowed down any further. By including others or expanding the scope, I think that we would start to do that.

I made a promise to those who gave evidence last week that the intention of what we have in front of us at present is to cover the people who made the presentation to us then. There was frustration and concern among them that the period could be extended, and what you said today, Fergus, also gives me that fear. Even before you gave evidence, I had heard concerns about some of the points that you raised, and we have asked for clarification from OFMDFM about what the intention is. You referred to a dual process. If it needs a dual process, so be it. We should not necessarily leave anyone behind, but we have made a clear commitment of intent in the inquiry, as proposed. We are all conscious that some parts might have been expanded, for example, to include pre-1945. However, continuing to push back this inquiry in order to include other groups would mean that those who have already waited for so long would have to wait much longer still. That is what fears me.

Ms Reid: I do not think that we are asking for the situation to be made worse for those who have come forward. We are asking for consideration and due attention for those who have not been able to come forward. The question we leave you with is this: put yourself in the shoes of those people, and tell me what they will hear and understand from the process. Credit for what has been done for those who have come forward, but the key is the message and communication. What will those who have yet to come forward hear? Will they hear that the care and consideration being offered to those who have spoken will be offered to those who have not been able to come forward? I am sure that my colleagues will support me when I say that the particular psychology that surrounds the impact of this sort of experience is such that there is a lot of self-blame and a huge impact on the individual's psyche. We ask that you consider whether they could possibly be further harmed by misunderstanding your intent.

The Chairperson: We are all aware that to go ahead, knowing that it is not a fully inclusive process, is an incredibly serious decision to make, but justifiable.

Mr Cumiskey: My response to your remarks is that an accelerated process does not have to be a skimming process, and a comprehensive process can be an accelerated process. You have the resources at your disposal.

Mr Clarke: Is that not a bit of a contradiction?

Mr Cumiskey: No. You can do the two at the same time: accelerate and expand. One criticism of this process is that it has been delayed.

The Chairperson: Saying that we have the resources at our disposal is a pretty sweeping statement.

Mr Cumiskey: One would hope that you have, given that you are the seat of government.

The Chairperson: Of course, we would hope so, but all things are finite.

Mr G Robinson: Just for clarification, at the beginning of your presentation, you mentioned that 60% of people were not included. Who are those people?

Ms Hunter: That is 60% of NEXUS clients: that is, those who have been sexually abused or violated in the family home. That is where the predominance of sexual violence occurs, which is why we want consideration given to fostering and adoption services. If children are placed in the care of other people by the state and abuse happens there, we think that that should be part of the inquiry.

Mr G Robinson: That clarification is fine.

Mr Clarke: May I tease that out? George raised a point about your clients. Are we talking about the normal family home? I am not saying that those people whom you mentioned should suffer abuse, but look at the definition of the inquiry: it is an inquiry into institutional abuse. We cannot define the family home as an institution, although mine feels like one at times because I have three children.

Mr Cumiskey: We are addressing the fact that very vulnerable children were placed in the care of fostering services, foster families, adoption services and adoptive families. That is the institution of state that we are talking about, which involves the transfer of very vulnerable children to contexts in which they were cared for and the duty of care resided with the state, to some extent, through oversight and safeguarding. The institute of state also includes all schools, and boarding schools in particular.

Mr Humphrey: May I get clarification from you, Pam? You said that 60% of NEXUS clients are abused in the family home. Is that 60% of NEXUS clients or 60% of those in society who are abused?

Ms Hunter: That is NEXUS clients. Of those who come to NEXUS to get help and counselling for sexual abuse, 60% were abused in the family home.

Mr Cumiskey: Some studies suggest that more than 90% of abuse takes place in or near a child's home and involves someone whom the child knows; a trustee of the family. In most worldwide studies of prevalence, that figure is 90%.

The Chairperson: We have another briefing to follow, so please be brief, Trevor.

Mr Clarke: Am I reading this wrongly? One of the policy objectives states:

"An institution is any body, society or organisation with responsibility for the care, health or welfare of children in Northern Ireland".

How is that excluding them?

Mr Cumiskey: Correct.

Mr Clarke: You are the one who is defining them as being excluded from the inquiry as it stands, but the Bill's background and policy objectives suggest that those who are responsible for the care, health and welfare of children, "other than a school", are included.

Mr Cumiskey: We include the school part of it. That is an inclusion, and we are happy to have that clarification made if that means fostering, adoption and children's homes all fit within it.

The Chairperson: I have a couple of what will, I hope, be quick-fire questions to finish. Susan, if I heard you right, you said that you wanted the power to extend or amend the terms of reference to rest with the panel chair.

Ms Reid: Yes.

The Chairperson: Not the panel chair in conjunction, or liaison, with the First Minister and deputy First Minister?

Ms Reid: It was not to separate or say that it was distinct from OFMDFM; it was to have the power and authority with the chair as well.

The Chairperson: OK.

I have a question about families. I think that we all agree that there is an intergenerational element and that it comes down a few generations. Does the Bill, as constituted, give sufficient focus to the children and grandchildren of people who were abused and may have passed on?

Mr Cumiskey: There is room for deposition. If there is room for hearings from families and their representatives, it would, of course, be inclusive.

The Chairperson: Finally, I have a point on compensation. Money tends to be what many people look for, and, sometimes, I think that it is a metaphor for need. I do not propose a nanny state, but giving money to people is not necessarily the best way to address their needs.

Ms Reid: It may not be the best way to address needs, but I can draw a parallel with my experience of supporting clients through criminal injury compensation. The point that I was trying to make concerned the different, and appropriately so, burden of proof in the context of Compensation Agency guidance, the scheme or, ultimately, the tribunal, if it is considering an appeal to a decision. That is important to the clients whom we see going through the system. The obvious difference is between a process of criminal justice, which requires the burden of proof, whether through a test of the evidence or of culpability, to be beyond all reasonable doubt, and an acknowledgement that something awful happened to you as a human being. So I can understand that people will say that financial compensation is not that important. However, as a metaphor for being believed, it is hugely significant to people, and it is particularly important to those who would not see justice. The point has been put to me that, for the majority of people, it meets their sense of justice to have, through compensation, that recognition.

The Chairperson: So there could be an acknowledgement or recognition payment, but one that should be backed up with a personal plan, where appropriate?

Ms Reid: Yes. I have also heard others quoted, and have personal experience of older people particularly, as seeing it as a significant opportunity to give something back to their family.

The Chairperson: Susan, Fergus and Pam, thank you all very much indeed.

Mr Cumiskey: Thank you so much.