



Northern Ireland
Assembly

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

OFFICIAL REPORT (Hansard)

Inquiry into Historical Institutional Abuse Act
(Northern Ireland) 2013: Rules Consultation

19 June 2013

NORTHERN IRELAND ASSEMBLY

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

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Members present for all or part of the proceedings:

Mr Mike Nesbitt (Chairperson)
Mr Chris Lyttle (Deputy Chairperson)
Mr Leslie Cree
Mr Colum Eastwood
Ms Megan Fearon
Mrs Brenda Hale
Mr Alex Maskey
Ms Bronwyn McGahan
Mr Stephen Moutray
Mr George Robinson

Witnesses:

Mr Jim Breen	Office of the First Minister and deputy First Minister
Ms Roberta Dalton	Office of the First Minister and deputy First Minister
Mrs Cathy McMullan	Office of the First Minister and deputy First Minister
Ms Maggie Smith	Office of the First Minister and deputy First Minister

The Chairperson: Joining us from the Office of the First Minister and deputy First Minister (OFMDFM) are Maggie Smith, supported by Cathy McMullan, Roberta Dalton and Jim Breen. You are very welcome.

Ms Maggie Smith (Office of the First Minister and deputy First Minister): Thank you very much.

The Chairperson: Maggie, you completed the consultation and the analysis thereof. Anything of note to report?

Ms Smith: Yes, we have quite a bit to report. Thank you very much for having us back to talk about the rules. The consultation on the rules lasted for eight weeks, from 28 March to 24 May. Overall, we had a positive response.

The consultation was advertised in the press and on the OFMDFM and Law Society websites. Copies were sent directly to around 500 stakeholders. From those, we had only 15 responses —

The Chairperson: Wow.

Ms Smith: — which was very good.

The Chairperson: Sorry, when you say "very good" —

Ms Smith: People tend to reply to a consultation because they have something to say about something that they want changed rather than to say how good things are. In this case, people did write to say how good they thought the rules were. Two organisations did that, and five organisations took the time to write to tell us that they had no comments. Eight organisations in total raised points about the rules.

The points that they raised were mixed. Some organisations were looking not so much to have things changed in the rules as to clarify and make sure that they understood some of the things in the Inquiry into Historical Institutional Abuse Act 2013 or the rules. Some points related to the implementation of the Act and the rules by the inquiry. We made sure that the inquiry had access to all the comments so that it could see what people were asking about and saying.

We provided you with our summary of the consultation responses. There is a table that, I hope, reached you.

The Chairperson: Yes.

Ms Smith: In that, you will see all the responses, comments made and our reaction to each of them. You will know from our previous exchanges that the rules are made under section 21 of the Act, and there are four areas in which we can make rules.

Before we go on to talk about the rules and the amendments proposed by the Ministers as a result of the consultation, I will take the opportunity to say something about the role of the chairman. What we are talking about here is the framework, put in place by government and the Assembly, within which the independent inquiry will be run. We already have the terms of reference and the Act, and, hopefully, we are now on the cusp of putting in place the final bit — the rules that set out in more detail some of the points in the Act.

It is important to bear in mind that this is an independent inquiry, directed by its chairperson. I know that we discussed this when we looked at the Bill at Committee Stage. Section 6(1) of the Act states very clearly:

"Subject to any provision of this Act or of rules under section 21, the procedure and conduct of the inquiry are to be such as the chairperson may direct."

Section 6(4) states:

"In making any decision as to the procedure or conduct of the inquiry, the chairperson must act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others)."

A very important part of the inquiry is the acknowledgment forum. It is very clear from the terms of reference that everything that happens inside the acknowledgement forum must be absolutely confidential. Under the Act, OFMDFM can make rules to copper-fasten confidentiality, and rule 19 guarantees that confidentiality. It talks about a duty of confidentiality owed by every member of the forum to the victims and survivors who speak to the forum. What that is really saying is that any information given inside the acknowledgement forum cannot be disclosed in the proceedings of any other part of the inquiry, unless the chairperson orders it, and that it cannot be disclosed in any criminal or civil proceedings in Northern Ireland, unless that is necessary to avoid a breach of the convention rights within the meaning in the Human Rights Act 1998. Clearly, the information that victims and survivors give to the acknowledgement forum is their own information, and rule 19 makes it very clear that it is obviously OK for them to repeat that information in another part of the inquiry.

The terms of reference also state that the acknowledgement forum records must be used only for the purposes for which they are intended and must be destroyed after the end of the inquiry. Rule 21 puts that into law and provides for the chairperson to direct destruction of the acknowledgement forum records, including ensuring that all the records be destroyed at the end of the inquiry. Therefore, that really copper-fastens the assurances that have been given to all victims and survivors.

The terms of reference also state that the inquiry must be, as far as possible, inquisitorial. That means that it is up to the chairperson to take charge of the proceedings and direct the questioning of witnesses when they appear at the oral hearings. It is probably worth saying that quite a lot of what is in the rules — I mentioned this at the beginning of May — refers to the inquiry's oral hearings.

Rules 5 to 12 lay down the procedures that ensure that the process in oral hearings is fair and inquisitorial. In particular, they make it clear that it is for the inquiry to ask the questions of witnesses. If another party wishes to ask a question, that party has to seek the chair's permission. Another party can suggest a question for the inquiry to ask, but it is always up to the chairperson to determine whether it is appropriate to ask that question.

In due course, witnesses will be called to the inquiry. Some organisations will have a particular interest in the inquiry's proceedings because of a part that they played or might have played in the matters that are being inquired into. Therefore, they might have a significant interest in the proceedings and oral hearings, or they might be at risk of explicit or significant criticism during the inquiry proceedings or in the inquiry's report. Where organisations are in that situation, the chair, under rule 5, can designate those organisations as what we call "core participants". Clearly, those organisations are in a situation in which there are points for them to be concerned about answering. Being designated as a core participant assists them in their dealings with the inquiry.

The Chairperson: In what way does it assist them?

Ms Smith: I was just coming to explain that, because there are a number of rules that set out what a core participant can do. First, core participants will be informed of the dates on which witnesses will appear. They will be permitted to propose questions to be asked of witnesses by the counsel to the inquiry. Both of those things are in rule 11. They will be permitted to apply to the chairperson to ask questions of a witness. That is in rule 10. They will be permitted to apply to the chairperson to make opening and closing submissions. That is in rule 12. When it comes to the point at which the inquiry is coming close to publishing its report, after that report has been submitted to the First Minister and the deputy First Minister, it will be provided to the core participants. Therefore, they get to see the report before it is published.

In the consultation, a couple of organisations asked whether they could be made core participants. It is clear in the rules that it is for the chairperson to determine who is eligible or needs to be a core participant. It is also important to underline that, although the rules give core participants the opportunity to apply, for example, to make an opening and closing statement, it is always down to the chairperson to decide whether that is appropriate.

The Act makes provision for OFMDFM to make rules to provide for witness anonymity orders. That was done from the point of view that there was concern that some witnesses might be in danger if their identity was known when they were giving evidence to the inquiry. Therefore, provision was made for the possibility of witnesses to apply to the chairperson for an anonymity order, which would give them certain protections in so far as it would allow them to use a pseudonym; not to be asked questions that would identify them; to be screened from all but the inquiry panel and counsel; or for their voice to be modulated to the extent that it is unrecognisable but still understandable.

That is witness anonymity orders covered. That provision was added at Consideration Stage. We discussed it here at Committee Stage. It was actually additional to restriction orders that are already provided for in the Act. Section 8 provides for the chairperson to make orders to restrict attendance at the inquiry or any part of it; to restrict disclosure or publication of any evidence or documents given to the inquiry; or to restrict the disclosure or publication of the identity of any person. Therefore, restriction orders already give the chairperson powers to restrict access to the identity of people who give evidence to the inquiry.

Since the rules were first developed and published, the chairperson has done quite a lot of further development on the design of oral hearings. He has decided that, rather than require someone to make an application to have their identity restricted, he will, through using his powers for a restriction order under section 8, make a general order that will provide for people's identity to be withheld. Using his broader powers, he will also put in place arrangements to provide for the use of pseudonyms, screening and all the things that people would have had to apply for under a witness anonymity order. The chairperson has quite rightly made the point that, because he is able to do all those things under section 8 and using his broader powers, there is now no need to put people into a situation in which they would need to have to apply for a witness anonymity order. There is now that

greater protection more widely and more simply available to everybody, so the Ministers have decided that there is no need to have that process for witness anonymity orders, so they intend to remove rules 22 to 35 in the draft Inquiry into Historical Institutional Abuse Rules 2013. If you look at those rules, you can see how complicated the process for witness anonymity orders was going to have to be.

Another area in which OFMDFM can make rules is on the return or keeping of documents given to or created by the inquiry at its end. Rule 20 requires the chairperson to keep the record of the inquiry in good order and to ensure that it is comprehensive. He is required at the end of the inquiry to place the record of it in the Public Record Office of Northern Ireland (PRONI). It goes to PRONI so that people can come back in due course and consult the records of the inquiry. That then raises the question of what we mean by the "record of the inquiry". The record of the inquiry was defined in rule 2, and it referred to all the papers and evidence that had been given to or created by the inquiry. That definition is extremely broad, and when you stop to think about it, you start to realise that if you include all the papers, that means all the papers: any document that was created by or given to the inquiry, regardless of whether it is relevant and regardless of its importance or lack of importance, and whether or not it was used. Points were raised about that in two of the consultation responses. It was raised by the Health and Social Care board and the Information Commissioner's Office. They were very concerned about documents being transferred as part of the record to PRONI, when in fact it would not be appropriate to transfer them at all.

The chairperson also raised concerns with us about the definition of the record of the inquiry. To rectify the situation, the Ministers are proposing a new definition to be inserted at rule 2. That definition will state that the inquiry record means all documents that the chairperson of the inquiry determines should form the permanent record of the inquiry's work. The chairperson will be responsible for judging whether any particular piece of any particular paper or piece of evidence is pertinent enough to be part of the record of the inquiry's work. That means that people can then have the assurance that nothing has been transferred to PRONI that should not have been.

At this stage, it is also worth going back to section 8 and mentioning the restriction orders that we talked about a short time ago. The chairperson can make restriction orders to limit access to evidence. He can also provide for orders that go on past the end of the inquiry. It may be that the chairperson will place records in PRONI but restrict access to them for a certain period. In the event of that happening, after the end of the inquiry, responsibility for such restriction orders will, under the Act, transfer to OFMDFM. Therefore, it will be up to OFMDFM to look preordinately at the restriction orders to see whether they need to be changed but, more probably, just to make sure that they are left there and given all the protections that the chair originally determined.

The Chairperson: Are there any restrictions on the time limit that the chair can apply?

Ms Smith: No. What is put in the restriction order is a matter for the chairperson's judgement.

The Chairperson: Will there be any restriction on when OFMDFM could first review?

Ms Smith: There is nothing in the Act to say when OFMDFM must first review.

The Chairperson: Therefore, to take a fairly exaggerated example, would it be possible for the chair to say the restriction will be for 75 years but for OFMDFM to say, after five months, that it is lifting that?

Ms Smith: No. I think that that would be highly unlikely.

The Chairperson: But the principle of it —

Ms Smith: In principle, there is no restriction on the amount of time that the chairperson can put on the restriction order —

The Chairperson: And there is no restriction on when OFMDFM can first lift the restriction?

Ms Smith: There is nothing in the Act about when OFMDFM can lift the restriction order. However, OFMDFM would have to have a good reason for going back and looking at the restriction orders. The legacy passes to OFMDFM, and the first principle would be to respect the restrictions that the chairperson placed on the material.

The Chairperson: OK. Have you more to add to your presentation, Maggie?

Ms Smith: Just a little more, yes.

Finally, I draw the Committee's attention to the rules that are made under section 14 of the Act. Those are the rules that deal with the financial awards to witnesses for loss of time or expenses incurred by attending or otherwise in relation to the inquiry. I draw your attention to the quite detailed process by which witnesses will apply for awards and by which they would be awarded by the inquiry. There is an amendment there. Into that process, we have added a line, which is now draft rule 45(5). There was a bit of a gap left in the rules, where an initial assessment of an award had been made but not agreed, so we have added a line to bring that process to a conclusion. It does not change the meaning to any extent; it just clarifies what the next step is.

We are more than happy to take questions.

The Chairperson: OK, thank you. That was comprehensive. I do not want to dwell on this, but you mentioned the number of responses. You sent out invitations to 500 potential consultees and got back only five responses, which is 1%. It seems that, of the 15 responses overall, 1% said that they had no issue, so 10 raised something. Therefore, 2% raised an issue and 1% of respondents said that they had no comment. I just want to ensure that I have understood you correctly, but you seem to be assuming that, by not responding, the other 485 — 97% — are content.

Ms Smith: We normally find in consultations that people tend to respond because they do not like something rather than because they do like something.

The Chairperson: What about the category of, "I got it, but I did not understand it, so I did not respond"?

Ms Smith: Anybody who did not understand had the opportunity to come back and talk to us about it. We would happily have gone through the rules and explained them to anybody who needed them explained.

The Chairperson: May I ask you about core participants, which relates to rule 5? Do you have a sense of whether more of the core participants will be individuals or organisations?

Ms Smith: That would be a matter for the inquiry. That would come out of the evidence that is before the inquiry, and only the inquiry has that evidence. We sponsored the inquiry, so we put in place the legislation, make sure that the inquiry has its budget, and so on, but we do not have any access to, or discussions with, the inquiry about the evidence that is before it.

The Chairperson: Therefore, it is equally designed for the benefit of individuals and organisations?

Ms Smith: Yes.

The Chairperson: OK. Rule 6 relates to recognised legal representatives. Rule 6(1) states:

"Where a core participant ... has appointed a qualified lawyer to act on that person's behalf, the chairperson must designate that lawyer as that person's recognised legal representative".

Rule 6(2) states:

"Where any other person, body, organisation or institution ... has appointed a qualified lawyer to act on that person's behalf, the chairperson may designate that lawyer as that person's recognised legal representative".

Why is it "must" in rule 6(1) and "may" in rule 6(2)?

Mrs Cathy McMullan (Office of the First Minister and deputy First Minister): There is a recognition that rule 6(1) is dealing with core participants, and that is slightly different from those who are not core participants.

The Chairperson: Why would that make a difference between saying that the legal representative "must" be recognised by the inquiry, whereas if you are not a core participant, your legal representative "may" be recognised?

Mrs C McMullan: As a core participant, a number of things apply to you, which we have talked about, that are in the rules. If you are not a core participant, it is the chair's decision to deal with all elements relating to that person coming forward to be a witness. Therefore, it would give the discretion to the chair to make decisions about that, having not designated them a core participant.

The Chairperson: Why? I still do not understand the difference between rule 6(1) and rule 6(2).

Mrs C McMullan: The point is that the person who the chair has decided is a core participant has clear things laid out in the rules that apply to them, and if you are not designated as a core participant, those things do not apply.

The Chairperson: I am sorry. I am not trying to be thick here, Cathy, but I still do not get it. If I go to Sir Anthony, and he says that I am a core participant, and I say, "This is my legal representative", he must accept that. However, if I go to him and am not a core participant, and I say to him, "This is my legal representative", he will say, "I will think about it." Why can I not say, "This is my legal representative" and he will say, "That is OK."?

Ms Smith: If we go back to thinking about what a recognised legal representative is, it is someone who is designated as such by the chairperson, and there is no reason that the chairperson would not designate. There is nothing in the rules to say why the chairperson would not designate that person as a core participant.

The Chairperson: All that I am saying is that rule 6(1) states:

"the chairperson must designate that lawyer",

whereas rule 6(2) states:

"the chairperson may designate that lawyer",

Therefore, those are two different categories.

Ms Smith: We can have another look at it and come back to you.

The Chairperson: OK. I was just trying to find clarity.

Ms Smith: We are happy to look at that, and we will come back to you.

The Chairperson: Another issue that I would like to raise, Maggie, concerns the participants and correspondence that you are aware of. Before we move to that, I want to open the floor to members on the specific rules. Are members broadly content?

Members indicated assent.

The Chairperson: Excellent.

Ms Smith: Thank you very much.

The Chairperson: Correspondence has come to me through a support group. I have anonymised it and distributed it. Clearly, I cannot stand over the authenticity of its detail but, as someone who has some experience of working with victims, there is a ring of truth about some of its emotive reaction. What can you tell us about your reaction to that, and any engagement you have had with the likes of Survivors and Victims of Institutional Abuse (SAVIA) over the past number of months since you previously were with us?

Ms Smith: Can I just be clear about the correspondence that you are referring to?

The Chairperson: For the members' benefit, it is on pages 120 to 123 of your packs. Maggie, I will pass a copy down to you.

Ms Smith: Thank you very much.

The Chairperson: If you are not aware of it, we will, obviously, leave it. However, a couple of weeks ago, we did ask whether you could come to discuss this. Are you aware of that correspondence?

Ms Smith: Yes, I am. Thank you. I did not want to say anything that might disclose anything inappropriate. Would you mind if I answered in general terms, for the same reasons that you have anonymised this?

The Chairperson: Absolutely. I am not asking you to deal with specifics.

Ms Smith: We would be happy to deal with specifics in an arena that was not public, if that was felt appropriate. The best way that I can address this, without going into detail, is to talk about the support that is available to participants, if that would be helpful. Right from the beginning of this exercise, we have been keenly aware that the advent of an inquiry, hearing about it, thinking about it, deciding whether to fill in a form, thinking about attendance at the acknowledgement forum, and what happens afterwards, were all potentially difficult events for the people who are affected. Therefore, in January 2012, five months before the terms of reference of the inquiry were established, we put in place arrangements for a counselling organisation to be available to anyone who was affected by historical institutional abuse.

We thought very carefully about what was required. It occurred to us that, when people came across this, it would be difficult for them, in part because they would not necessarily be available between 9.00 am and 5.00 pm. We believed that a free, professional 24-hour service would be required that would be available to everybody in Northern Ireland, no matter where they were, exactly when they needed it. The arrangement that we put in place was with the Lifeline counselling organisation. That is a professional organisation that is funded by the Department of Health, Social Services and Public Safety (DHSSPS), and managed through the Public Health Agency (PHA).

All the counsellors in Lifeline are accredited by the British Association for Counselling and Psychotherapy, the Irish Association for Counselling and Psychotherapy, or an equivalent organisation. So they have professional qualifications. Arrangements are built in for clinical supervision, which every counsellor has at least monthly; all the security checks are done; all the children and vulnerable adults checks are done; and there is a process for escalation. It is a good organisation, and it is funded and properly managed and monitored through the health service. What that offers to people is very important. If somebody phones up, their issue is dealt with immediately, no matter the time of the day or night. There is also a process for de-escalation; therefore, by the time they get to the end of the conversation, people are in a safer place than they were at the beginning. Everyone is entitled to an assessment, so it is not just about what is happening to them today; it is about their longer-term needs and whether they need, for example, a longer-term counselling relationship, to be referred to another service, or whether there needs to be some liaison with their GP.

That service has been in place since January 2012. For people who stay with it and who pass the initial assessment, their longer-term counselling can be either via telephone if that suits them best, or it can be face to face. Lifeline has headquarters buildings in Belfast and in Derry, and the counsellors can also go out to see people in their own area. They use about 300 venues right across Northern Ireland. Therefore, if they live a long way from Belfast or Derry, the counsellor can go out and see them.

We looked at the arrangements recently and felt that there was a bit of a gap in the counselling. People can go along and have four, six or eight sessions — whatever they need — with Lifeline but, sometimes, when people are referred to another part of the system, perhaps because they need to go to addiction services or specialist sexual abuse counsellors, there is a waiting list. Therefore, we recently signed a contract that allows OFMDFM to pay for additional counselling on a longer term for people who are waiting to go to another service.

I am looking at this chronologically. When the inquiry was established, part of what we set up was a witness support service. I am not going to talk about the detail of what happens inside the inquiry,

because that is not for me to do. However, I can tell you about the provision that has been made. There is provision for witness support officers, based within the inquiry structure. We fund them to ensure that, when people contact the inquiry, they understand what is going to happen, they understand their appointments, their travel arrangements, they know that they can bring a companion with them, and they know that they can have their and their companion's fares paid or reimbursed. We make sure that they know what is going to happen when they get there, and we support them after talking to the acknowledgement forum or the lawyers. The witness support officer will have a conversation with them to make sure that they are all right, give them information about available services and also have a follow-up telephone conversation afterwards.

We have had very positive feedback. Obviously, we do not have close relationships with victims and survivors, but we know a certain number with whom we have had dealings throughout this process. Those people are very positive about the young people who provide that witness support service. I talked to someone a couple of days ago, and he said, "The girl who dealt with me was absolutely fantastic. She really helped me."

As part of the package, thinking about the needs of victims, we also ensured that there was the opportunity for the inquiry, if it so wished, to hold acknowledgement forum interviews in places other than its headquarters buildings, for example in Derry, but also in other places if that was felt appropriate.

As you will remember, the acknowledgement forum has been up and running since October 2012. To coincide with the forum coming into operation, we set up drop-in centres in Belfast and Derry. We set those up on a pilot basis; they resulted from conversations that Ministers had with SAVIA. The idea is that they are places for people to go to, regardless of whether they have been to the acknowledgement forum or whether they are going. They are for anybody who is part of the historical institutional abuse community. We make sure that there is a trauma counsellor on site. We also make sure that refreshments are provided and that there is space and time for victims and survivors. The Derry one has, to use an expression from my native land, been going like a fair; it has been extremely successful. We set it up for a few months as a pilot to see what would happen. We extended it to September, and we have just extended it to the end of March 2014. Before we reach that date, we will be making sure that we have a good look at it, because that is when the contract has been extended to. The assumption is that we will be looking at it with a view to continuing it after that date.

It was very disappointing that the Belfast drop-in centre was not so successful. We were not able to continue it after the pilot. It had started on the Antrim Road, but victims and survivors felt that that was not a very convenient location, so we moved it into the city centre, very close to the bus and rail station so that it was highly accessible. Unfortunately, it was not used. We still believe that there is a need for a drop-in centre in Belfast, and we want to have another go at setting one up, so we have been talking to SAVIA about how we might go about that.

The Chairperson: Maggie, it is my understanding that SAVIA has set something up in Belfast city centre.

Ms Smith: We understand that SAVIA has premises in Belfast. The last time we met SAVIA representatives, we did so at those premises.

The Chairperson: It is holding its official opening on Friday.

Ms Smith: We are still committed to providing a drop-in centre over and above anything that SAVIA is doing.

It is worth saying at this point that the two drop-in centres that I mentioned are provided by the WAVE Trauma Centre, which offers a full range of counselling services. Whatever we put in place will be procured through procedures that make sure that it is absolutely safe, that any counsellors are properly qualified and that all the appropriate checks, and so on, have been done.

The Chairperson: Maggie, I do not want to interrupt you, but there are some details I would like to go back over, if that is OK.

Ms Smith: Please do.

The Chairperson: WAVE was supplying services for two hours a week.

Ms Smith: That is right.

The Chairperson: In an ideal world, there would be more. For some people, those two hours a week and the venue did not particularly suit. Lifeline is a 24/7 service. How long has that been available?

Ms Smith: It is available to everybody in Northern Ireland, but we have had a specific arrangement with Lifeline since January 2012.

The Chairperson: Was that service procured?

Ms Smith: Yes and no. The service is already provided by DHSSPS, so there is already a government contract.

The Chairperson: Have you also held an open procurement?

Ms Smith: We have; I was coming on to that. A few minutes ago, I referred to bridging counselling and the fact that people are waiting, perhaps for months, to move on to a specialist service. We have just signed a contract for the provision of bridging counselling for those people. That is part of the tender that we have recently completed. There are a couple of other elements to that, which you might be interested in.

The Chairperson: I am interested in that tender. It closed on 21 January?

Ms Smith: Yes.

The Chairperson: So, five months later, it is still not up and running after the close of the tender?

Ms Smith: There are a couple of issues. First, we had one response to the tender —

The Chairperson: One?

Ms Smith: Yes. We had intended that the services would have been up and running before now, but it took us rather longer than we had hoped to get everything settled.

The Chairperson: Again, I am sorry to interrupt. One response, obviously, is not ideal but, as I understand it, the award criterion was the most economic tender; therefore, one wins.

Ms Smith: There were a number of award criteria. The core issue here is about the service that is to be provided. Although the most economic tender was one of the criteria, the totality of the criteria were actually about the service to be provided. The tender that we received was clearly a good one; otherwise we would not have accepted it. However, there were some points of detail that had to be sorted out before we could award the contract. That was about working with the suppliers to make sure that we got the best service to meet the needs of our victims and survivors.

The Chairperson: So the applicant that responded by the closing date in January is the one who has been awarded the tender?

Ms Smith: Yes.

The Chairperson: But it has taken five months to sort out?

Ms Smith: Quite a bit of detail was involved in working out exactly what the service was going to be.

The Chairperson: Five months? With the ongoing issues that you see in the correspondence?

Ms Smith: Thinking about what is in the correspondence, if those people — I am trying to avoid saying what is in the correspondence —

The Chairperson: I do not think we need to be too shy. What about the person who was going to jump off the bridge on the Ormeau Road because he was asked to go to the Ormeau Road, which was where he was abused in the first place?

Ms Smith: On that specific incident, my understanding is that a text message was sent to somebody, and it would have been the responsibility of the person who received that message to contact the emergency services. As I have explained, the counselling service has been in place since January 2012. That service is there for all the people who have written that correspondence. It is already there and operating. It is a professional service that is there for people to use 24 hours a day.

The Chairperson: But to take that text message at face value, to access that counselling service, that individual was asked to go to an area of the city that was the exact place where they had been abused in the first place. That secondary trauma provoked a response that nearly led to something rather permanent.

Ms Smith: Obviously, I do not know the background to that person's situation. I do not know why that person would have been asked by Lifeline to go to the Ormeau Road. We just do not know.

Ms McGahan: Thank you for your presentation. Since the Committee received the correspondence from SAVIA dated 30 April, do you feel that the provision of services will now adequately address the concerns that it raised? Secondly, are you aware of many victims who do not engage with SAVIA?

Ms Smith: If you do not mind, I will answer the second question first, because that is the easiest to answer. We know only a certain number of victims, but we know that quite a number of victims do not engage with SAVIA. Clearly, it is for every victim or survivor to decide whether they wish to engage with or join SAVIA.

Going back to your first question about the correspondence, I again refer to the fact that the arrangement with Lifeline has been in place since January 2012. That is a counselling organisation that is available 24 hours a day. It is also important to say that anything that is put in place by OFMDFM is additional support for victims and survivors as a result of the ongoing inquiry. There is already the entire health and social services system, which is for the benefit of all. One of the things that a counselling organisation such as Lifeline would do is to identify people who need longer-term support. Some people who contact a counselling service will need it only once or a few times, but there will also be people who have longer-term needs that are much more serious. In such cases, the responsibility of Lifeline would be to assist that person, if they were not already in touch with their GP or the community services, to move on to medical services.

Mr Lyttle: For clarification, is the extent of available trauma counselling two hours in a designated time slot on a Friday?

Ms Smith: No. The extent of counselling that is available to people — I am sorry for repeating myself — is as follows. Let me separate out the elements. There is the Lifeline service, which is a professional counselling service, available 24 hours a day. If people contact Lifeline, it is not just a one-off; it is the beginning, or potentially the beginning, of a relationship, if that is what they want. As part of their contact with Lifeline, they have an assessment. That is not just about how they are feeling now, but their long-term needs. Then, if appropriate, and they wish to, they have the opportunity to have a longer-term counselling relationship with Lifeline. As I said earlier, that could be either face-to-face or on the telephone, depending on the needs of the individual. Clearly, counselling is not going to be the answer for everyone, so Lifeline assists people to access other services, if that is what they need.

The two hours on a Friday relates to the drop-in centre in Derry. That is a different situation: it provides the opportunity for victims and survivors to come together. As I said earlier, we provide the space through WAVE, we provide refreshments, and there is a trained trauma counsellor on hand. People can drop in on that counsellor, or they can just chat with the other people there. What people tell us, and what we see when we visit, is that both of those things happen together. Someone might slip away quietly to talk to the counsellor, or they might sit and have a conversation with other victims and survivors. It is an opportunity for individuals to use the service as they wish.

Mr Lyttle: What level of advance preparation was done with the likes of Lifeline? This is obviously an exceptional situation. Is it adequate that quite a significant amount of the resources that you rely on is

through an existing service such as Lifeline? Was there some sort of additional support or preparation completed in connection with Lifeline?

Ms Smith: There was both. We should not underestimate the infrastructure that is available through Lifeline. It provides trained councillors, clinical supervision, management systems, ongoing training, and the facilities in Belfast and Derry. It can go out to other parts of Northern Ireland. It uses at least 300 other venues, when necessary. It is an accredited organisation, funded through the health system. That is very important because it is good organisation in its own right, but —

Mr Lyttle: It is an excellent organisation.

Ms Smith: Yes, but it is also managed by the PHA through the contract, so our relationship is not only with Lifeline; we have a very strong relationship with the PHA and the contract management. That is very important to us, because that is where we are getting our assurance that everything is as it should be.

Mr Lyttle: I am aware of some organisations that were reluctant to apply for the tender because of concerns about the adequacy of the extent of the service provision that was being tendered for. Obviously, some quite detailed concerns are being raised. Are you still content that the provision that is in place is adequate to meet the needs of people?

Ms Smith: I think that it is a matter of considering all of those arrangements together. It seems to me that the crucial factor is that a 24-hour professional service is available. For all of us, regardless of who we are and what our circumstances are, issues do not come up conveniently when we have an appointment to see someone. We do not have advance warning: something happens, and we need help, and that can happen to all of us. Considering the situation that our victims and survivors are in, it will not necessarily be easy for them to turn to someone, but knowing that there is a professional service has got to be a good thing for them.

The support that is being provided by the inquiry itself is also very important. When attending events and talking to victims and survivors, I have never asked and would never ask whether they have been to the forum or to the inquiry, because I do not think that it is appropriate for me to do so. I have been struck by the number of times that people have told me of the assistance that they have had from witness support officers, who they mentioned by name, so I know who they are talking about. People have told me how much they have appreciated their experience in the acknowledgement forum itself and the benefit that they got from it. People have also told me about the benefit that they have had from talking to the inquiry lawyers. I know that people have been in touch, and that is a matter of great concern to us, but, equally, we have seen a hugely positive response to the inquiry and to the support services.

The Chairperson: I do not think that anyone is questioning that the inquiry is a good thing, Maggie. It is just that, obviously, it is our job to drill down a bit. Chris, with your permission, I will come in with a question.

Mr Lyttle: That is fine, Chair, yes.

The Chairperson: I want to follow up on Chris's point that he is aware of organisations that did not follow through on the invitation to tender. You said that the most economic tender was not the only criterion.

Ms Smith: Yes.

The Chairperson: I have two specific questions. First, what weight, as a percentage of the overall marking, was given to the economic aspect of the submission? Secondly, what were the other key criteria?

Ms Smith: First, do you mind if I explain what we mean by the economic criteria?

The Chairperson: A lot of other members want to get in, Maggie. What percentage was given to the economic part of the pitch? Alternatively, how many marks of the total were awarded on that criterion?

Ms Smith: OK. The delivery methodology was 40%. Marketing, governance and reporting was 10%, and the price was 50%.

The Chairperson: It was 50%. OK. It was governance, delivery and price. OK. I appreciate that.

Mr G Robinson: Thanks to Maggie and her team. My point is on the drop-in centres. I am very interested in that. You said that they were very successful in Londonderry but not so successful in Belfast. What is the reason for that?

Ms Smith: We do not fully understand the reason, but the evidence from Derry about the benefits for individuals makes us think that it is important to have that opportunity. That is why we will try again. We will maybe try to do it a bit differently this time and see how we get on, but we will keep a very close watch to see how it is going from week to week and to see if we need to change anything. In Belfast, unfortunately, the take-up was so small that we did not have enough of an indication of what could be changed. It just did not work.

Mr G Robinson: Are there no specific reasons?

Ms Smith: Not that we know of. It is always worth having another go.

Mr G Robinson: It would be very interesting to find out why.

Mr Maskey: Thank you for the extensive presentation. We are in a very awkward position because, in one sense, we nearly need to have this conversation in closed session. However, I certainly will not advocate that because we would take a lashing for that as well. Given the sensitivities, we are all on the head of a pin in this discussion, but I will break loose a bit.

Some of the criticisms that we are reading go back to April, and the anecdotal evidence supposedly shows that the service is overwhelmingly abysmal. We are told that OFMDFM staff are not responding to requests for updates on the proposed services, and there is a whole litany of other complaints plus a number of personal testimonies. It seems to me that it is in stark contrast to what we are being told. Somewhere along the line, we need to grasp the nettle, because it is stated in the letter:

"These experiences were incurred with the complicity of the state which is once again ignoring the needs of victims".

That means that we, collectively, are ignoring the plight of the victims. So, you can understand why we want to get to the bottom of the issue.

I very much appreciate your presentation so far, Maggie. Bronwyn asked how many people beyond SAVIA would be engaging with the inquiry, and we are led to believe that it may be quite a number. It is not for us to determine who engages with it, because all victims have their own needs and have to act in their own best interests. You give them that support. However, some of the testimonies refer to logistics, and people say that they cannot get from a to b and need taxis. Are those issues being dealt with? Is the substance of the counselling being resolved? You indicated that that is happening in many ways and made the point that you are trying to re-establish a drop-in centre for Belfast. That has to be good news.

I am not sure where we are with all this, because the stark testimony says one thing and your advice to us is almost entirely the opposite. That is fair enough; I am not making a judgement on that. I am just making the point that we are trying to grapple with that and are maybe not getting to the nub of the problem. That is why I said that we are in open session and that it is on public record. I am not so sure how far we can take this, because we have to take the criticisms that are levelled and then get a response, which we are getting. Somewhere along the line, we need to put this to bed and move on with the success of the inquiry and the experience for victims —

The Chairperson: I am reluctant to go into a closed session, Alex.

Mr Maskey: No, I am not advocating that. First, we will be accused of trying to cover something up. I do not advocate or support that. However, at some point, we might need to be a bit more open and

honest in our conversations. I think that we need to get to the root of the problem and to find out whether there is a blockage or a reluctance to engage. I do not know if that is the case. I am reading one thing, and we are being advised of something entirely different. Somebody has written in a testimony that they cannot get from a to b, and Maggie has come along and told us that the service can use 300 venues. Some of those venues must be available.

At some point, I would like us to be able to say that we have allayed, sorted out and put to bed the questions or criticisms that have been put to us. To be quite honest, I do not think that we are at the point where we are able to do that. Either we say that we believe Maggie or we do not, or we say that we believe the victims who have written testimonies or we do not. None of us wants to get into that position.

We are in a very difficult and awkward position, because we cannot state what the problems are. What we need to hear — we are hearing it today — is that there is a service and an attempt to re-establish a drop-in facility. The drop-in facility in Derry is apparently working very well, so why is it happening and working very well in Derry and not in Belfast? Maybe we need to get under the skin of this and be honest about it.

The Chairperson: In fairness, the problem with the Belfast drop-in centre was probably more its location than anything else. The Wave Trauma Centre is off the Antrim Road, and it is not the handiest. I want to go back —

Mr Maskey: Sorry, Chair. I want to make the point that we have been told that counsellors have 300 venues to go to. What is the problem? Somebody has written to say that they have a problem getting from a to b. Who will take that testimony and tell that person that they will get them from a to b and give them 10 options?

The Chairperson: I just want to make it clear that, when I referred to an anonymous witness who said that he or she was asked to go up the Ormeau Road but that that did not suit, I was not pointing a finger at Lifeline. I have no evidence that Lifeline or a representative or agent of Lifeline was involved in that. I want to read that into the record. However, reading those witness accounts, they have a ring of truth about people's emotional experience of what happened and their engagement with agents working on behalf or in support of the inquiry and the acknowledgement forum. That is where, as Alex said, we are not sure.

Maggie, I want to ask one specific question. You mentioned the assessments that are carried out as part of the engagements with Lifeline. Are those compulsory?

Ms Smith: No.

The Chairperson: Right. So, they are just offered.

Ms Smith: That is what would normally be offered by Lifeline. If I were to ring Lifeline, because I was worried or distressed about something, the counsellor would deal with my immediate problem but would also be concerned about my long-term welfare. That is where the assessment comes in. We —

The Chairperson: My concern is that a lot of victims, who may already have been in contact with a support organisation such as Lifeline, resent the thought of having to go through another assessment. It is very off-putting for them. It is like a game of snakes and ladders, and every time you go for help, the first thing you have to do is hit the big snake and go back to "Go". They do not want to go back to "Go". They just want help for an immediate problem.

Ms Smith: Our understanding of the assessment, as it has been described to us, is that it is not about ticking boxes. It is about gaining an understanding of a person's situation and what more they may need from the service.

The Chairperson: Yes, but that means that they have to, unnecessarily, go back to "Go" on occasions. That is the off-putting aspect for victims and survivors.

Ms Smith: Do you mean that they have to explain their circumstances again?

The Chairperson: Yes. You have gone to the acknowledgment forum and have gone through your circumstances. You have come out of that, and, to some extent, that experience has re-traumatised you; we all accept that that is part of the risk process or whatever way you want to describe it. If you feel that you are at risk of being re-traumatised, you might say that you want help. The first thing that you are potentially asked to do is to go through it a second time, rather than being halfway along the game of snakes and ladders, where you can say that you just want help for a little specific bit as opposed to being asked to reopen it all for a second time on the day.

Ms Smith: Yes, but, in a counselling situation, the conversation is led by the client; the person coming forward.

The Chairperson: Is it?

Ms Smith: Well, it is up to them what they tell the counsellor.

The Chairperson: Are they in a fit condition to lead such a session?

Ms Smith: The reason that they are contacting —

The Chairperson: It is because they need help.

Ms Smith: Yes.

The Chairperson: I suggest that they are in a more passive position.

Ms Smith: They verbalise what they want to say.

Mr Cree: I am sure that you do not wish to come across as complacent, but I am thinking about how big the problem is. Is it a significant problem? From my constituency work, I can tell you that it is a massive problem. We have the highest levels of PTSD in Europe. People cannot get the service they need. They ask me, and I try with health professionals, Lifeline and all the other things. It is totally inadequate. Is that just in my area, or is there something that I am missing? It is a major problem. In reply to a question for written answer, the Health Minister has formally certified to me that the number is the highest in Europe. However, the help is not easy to find. I was particularly interested in the question that George asked about why the one on the Antrim Road failed. I would have thought that a lot of work would have gone into that to see exactly why we did not hit the target there. Maggie, you said that you would try something else. Quite honestly, that is not good enough. We need to know exactly what is happening and what needs to happen, and we need to address it. How do we tackle all those people with PTSD?

Ms Smith: I am afraid that I am quite ignorant; what is PTSD?

Mr Cree: Post-traumatic stress disorder.

Ms Smith: Oh, I beg your pardon.

I cannot answer about post-traumatic stress disorder. I cannot answer for the Health Department or the Health Minister. I can talk only about what we are doing in the historical institutional abuse inquiry and things associated with it.

Mr Cree: There will hopefully be some dotted lines in all this. Will there not be some liaison?

Ms Smith: There are, but I cannot talk for the Health Department.

Having said that, we would never expect anything we put in place to be the only thing available. The entire health service and the social services are available to all of us. That is where the fundamental services are. We have recently become aware of a new service that the police and the Health Department have put in place. It is in Antrim Area Hospital, and it is called the Rowan centre. That is a centre for people who have been sexually abused. That might be of assistance to some of your constituents who are in that situation. It is the first sexual abuse referral centre that has been set up here.

Equally, we also know that, in the public domain, the health and social services and the police have a protocol in place for dealing with people who have been abused. Again, that is something that swings into place when abuse is reported to the police or the social services.

Mr Cree: I am aware of that. However, a lot of these problems arise from things that happened some time ago. I hoped that we would have a co-ordinated approach to all of this. Surely we need a joined-up approach.

Ms Smith: That is partly why we are using services that are already provided as part of the wider health system; Lifeline, for example. It is very important that we are doing that. It is also why we are using WAVE to deliver the drop-in centre in Derry. We want to be very clear that whatever we are arranging for our victims and survivors links into the existing infrastructure. We know, therefore, that it is proven and will provide a quality service and that the system or organisation will be in place after the inquiry is over.

Mr Cree: Do you think that we have a quality service at the moment?

Ms Smith: Yes; I think that, in Lifeline, we have a quality service.

Mr Cree: I am talking about the big picture.

The Chairperson: OK, Leslie.

Ms Smith: I cannot answer that.

The Chairperson: Leslie is broadening it, quite rightly, as we have a huge issue in Northern Ireland.

Ms Smith: I take the point.

Mr Eastwood: I am trying to clarify something in my own head. Anybody here could ring Lifeline 24 hours a day. My experience is that Lifeline and WAVE are fantastic organisations. I am just trying to understand what the additionality is for the victims who are going through the process that we have set up. What is the extra bit that we have done for them outside the service in Derry? I also want to ask about the service in Belfast. You said that it moved to a city centre location but did not work there either. Have you talked to victims to find out why they did not go there and what could be done differently? We are told that there has been very little contact between the Department and SAVIA on how to move things forward; is that the case? I have probably asked three questions.

Ms Smith: I will start at the end and work backwards. Alex also mentioned contact with SAVIA. I was quite disappointed to hear that SAVIA — well, I do not know whether it was SAVIA but somebody said it.

Mr Maskey: It is SAVIA's letter.

Ms Smith: I am disappointed to hear that SAVIA feels that we are not in contact with it because, in fact, we are in regular contact with SAVIA.

Mr Eastwood: I will clarify what SAVIA said:

"OFMDFM staff do not respond to our requests for updates on proposed services".

Is that the case?

Ms Smith: I am not aware of any request that we have not replied to. We have ongoing contact with not just SAVIA but other victims and survivors.

Mr Eastwood: It is just that we have that letter from SAVIA in front of us, so I needed to ask the question.

Ms Smith: We are in ongoing contact with SAVIA. In fact, not only us but Ministers have had a huge amount of contact with SAVIA all the way through this process. As you probably know, the terms of reference for the inquiry came from a paper that was contributed by SAVIA. SAVIA has been involved all the way through. It was behind the original concept, the motion in the Assembly in 2009 and the terms of reference. The design of the inquiry came out of the terms of reference and discussions on support services. We continue to have ongoing contact with SAVIA.

As I mentioned, the issue that we are particularly interested in talking to SAVIA about at the moment is the support services and what we can provide in Belfast. We were down in SAVIA's offices 10 days or two weeks ago. We have had meetings since then. We are meeting SAVIA next Friday to talk about drop-in centres in Belfast. Between all those meetings, there is phone contact. So, there is a fairly busy conversation going on between us and SAVIA. However, I want to make it clear that it is not just SAVIA, but other victims and survivors, that we are in contact with.

Sorry, that was your last point.

Mr Eastwood: My other main point was about the drop-in centre. You have said that you will meet SAVIA next week to talk about that.

Ms Smith: Yes. Is it on Friday? No, Monday.

Mr Eastwood: You said that you were not clear about why the Belfast drop-in centre had not worked.

Ms Smith: Yes.

Mr Eastwood: But I was trying to figure it out. Have you spoken to victims who you had hoped would use —

Ms Smith: Who did not go to it?

Mr Eastwood: Yes, basically.

Ms Smith: Yes. The key issue for victims was the fact that it was on the Antrim Road.

Mr Eastwood: But you moved it —

Ms Smith: And we moved it. We have never been able to fully understand why it was not used after it was moved. We moved it to Millennium House, which is beside the train station in central Belfast. It could be partly to do with that venue. We wanted to put it where it was anonymous and easily accessible. I wonder whether it was too easily accessible. It looks like a building —

The Chairperson: There is an issue for somebody feeling as though they are, metaphorically speaking, wearing a sandwich board that says, "I am a victim" and going into something as prominent as Millennium House.

Ms Smith: Yes, that is my thinking, having worked in that building. We do not have evidence from victims to tell us that.

Mr Eastwood: Will you be gathering that evidence?

Ms Smith: That is why it is important that we have a good conversation with SAVIA about what we need to do to make the service comfortable for people to come to.

Mr Eastwood: My other question was about Lifeline and the additionality of that. We all know that it exists and is a good service. I have been to see it. What extra is that? I ask because you have been tasked with setting up a specific service for these people. How does Lifeline meet that criterion?

Ms Smith: It meets the criteria that we want to fulfil for victims and survivors because we knew — as you, Chris and others have said — of that service's quality. It takes massive infrastructure to provide something that will be available to an individual when needed. I am sure that I do not have to explain that to you. Existing organisations are able to bring that. Lifeline provides a service that is available to

the person when they need it, and we can be clear and assured about the quality. It is about using the existing expertise and infrastructure when putting other things in place; making sure that it is linked into the wider system and is not short term, temporary and perhaps not able to sustain the quite challenging level of service that needs to be provided.

The Chairperson: OK. Maggie, thank you. I will try to sum up the mood around the table. First, the Committee is extremely supportive of an inquiry into historical institutional abuse. Again, we understand the importance of the acknowledgement forum, because you can blithely talk of the importance of storytelling, but telling their story may be of no benefit to a victim or survivor if they are not respectfully heard and acknowledged. I do not think that anybody has any concerns about how Sir Anthony and his team are running the acknowledgement forum. I think that people are getting their stories respectfully listened to and acknowledged. However, for any individual engaging in that process, there is always the danger that the process itself will spark a form of re-traumatisation, as they relive the original incident or incidents. I believe that those around this table have concerns regarding the support services that are in place. That is based on, for example, the fact that only one organisation tendered, that it has taken five-plus months since the closing date to get it going, and the failure of the drop-in centre. I believe that there is a general level of concern among members. If we were to go round the table and ask whether anybody is satisfied that they can support what is currently in place, I do not think that we would get a single hand in the air. Would we, members?

Mr Maskey: I think that we need to work out some of the reasons why that is. I am not satisfied that we have the full picture in front of us. I am not suggesting that that is not coming —

The Chairperson: I think that we have taken it as far as we can today.

Mr Maskey: If we are going to try to sum things up, we need to do so in a balanced way.

The Chairperson: I think that we want to revisit this, Maggie.

Ms Smith: That would be good.

The Chairperson: At this stage, I want to put down a marker that we have concerns. Thank you very much for coming along today. I think that it has been very useful. To go back to where we began, there do not seem to be any particular concerns about the rules, but, if there are, we have Sir Anthony in the wings. Thank you all very much.