

## Consultation Questionnaire

### Q1. Do you agree or disagree with the purpose of a National Confidential Forum?

Agree  Disagree  No preference

As well as acknowledging harm done and bringing health benefits to survivors, one of the stated core purposes of the Forum is to learn from peoples' past experiences to inform future improvements and protect the rights, health and wellbeing of children in residential care today and in the future. Whilst we are fully supportive of this aim, it is important that, in trying to achieve it, the rights, needs, health and wellbeing of the adults participating are also met and protected. We believe a therapeutic and reparative element should be at the core of the forum.

To ensure the Forum is effective and meets the needs of participants it is important that:

- The Forum respects the confidentiality and anonymity of participants and complies with data protection legislation. This is especially important in relation to the reports that will be produced for Ministers providing a record of participants' experiences. We are content with the guidance in the consultation stating that no individuals, their families or any others involved will be identified in the reports.
- Participants are fully informed at the outset of what will be involved in the process.
- In particular, participants must be fully informed about about any limits to confidentiality and what actions, if any, will be taken by the Forum should participant's disclose information / accusations about incidents (or against individual or institutions) that constitute a crime.
- Participants are appropriately supported throughout the process and treated with respect, sensitivity and compassion.
- Participants are able to pull out of the process at any time, and should be informed of this at the outset.
- There are clear communication and referral links between the Forum and other agencies and support services. This is essential to ensure that those who need or want it, can receive additional support throughout the process and beyond. This will be particularly crucial, given that the Forum will only be operating for a fixed period. Victim Support Scotland welcomes further discussion / consultation during the development of the Forum as to how we can achieve good partnership working and referral mechanisms between our services and the Forum

**Q2. Do you agree or disagree that the Forum should operate independently from Government?**

Agree  Disagree  No preference

Victim Support Scotland supports the proposal to operate the Forum independently of the Scottish Government.

As highlighted in the Time to be Heard Report, this is important for ensuring the needs and rights of victims of abuse are met and respected.

Additionally, the administering body should have good links with other support agencies and services that may be involved, or may need to become involved, in supporting participants. Good partnerships with the police will also be vital, to ensure an appropriate and supportive response is achieved in the event that a crime is reported / allegations are made against residential care staff.

It is essential that the operating body and those working within it to implement the Forum must have a good understanding of the needs and issues of participants and should, as a priority, work to ensure those needs are met.

**Q3. Should the Forum**

**(a) be integrated into another public body ?**

Agree  Disagree  No preference

**(b) be a separate unit within another public body?**

Agree  Disagree  No preference

Victim Support Scotland has no particular preference but any decision must consider the capacity and capabilities (e.g. training, resources etc.) of the public body or unit to implement the provisions required (including those detailed in our response to Q1) to meet the needs and respect the rights of the victims of childhood abuse.

**Q4. Do you agree or disagree that all adults who were placed in residential care by the State should be eligible to take part in the National Confidential Forum?**

Agree  Disagree  No preference

As indicated in the TTBH Report, one of the key aims of the Forum is to acknowledge and help to heal any hurt relating to individuals' experience of abuse whilst in residential care, through allowing participants to recount their experiences in a confidential, non-judgemental setting. Thus, to ensure this aim is achieved, Victim Support Scotland believes that, regarding eligibility, priority should be given to those with negative experiences who want, or indeed *need*, to be heard.

We believe the therapeutic benefits for those with negative experiences should be the primary focus of the forum, and any decision on eligibility should be made on the basis that it will not jeopardise the therapeutic element for participants who have experienced residential abuse.

As such our preference would be that the Forum (or at least the oral hearing aspect of the forum) is focussed on survivors of residential abuse.

The Forum is part of a strategy which has as one of its core aims to improve the health and wellbeing of survivors of childhood abuse, and so should focus its provisions on this client group.

**Q5. Do you agree or disagree that the process should be the same for all participants, regardless of whether they regard themselves as survivors of abuse in residential childcare?**

Agree  Disagree  No preference

Please see our response to Q4.

**Q6. Do you agree or disagree that people who were in the following types of residential care should be included:**

- residential schools and children’s homes
- residential educational provision for children with special needs
- long-stay hospital provision for children with acute medical and/or mental health needs
- secure accommodation

Agree  Disagree  No preference

Victim Support Scotland believes *all* survivors of abuse in a residential establishment, regardless of the type of residential care they were in, should be entitled to have their voices heard and their experiences acknowledged. The risk in including only those who were abused in certain types of residential care settings is that it will create a hierarchy of victims, whereby some victims of residential abuse are perceived to be more deserving of inclusion than others. This would send a very negative message to some victims of childhood abuse in certain residential settings that somehow their experience is less serious than if the abuse had happened in a different care setting. Childhood abuse is equally abhorrent and the consequences equally devastating regardless of where it took place. The Forum should, as such, be equally inclusive in terms of eligibility and in respecting the rights and meeting the needs of *all* victims of abuse in *any* residential setting.

**Q7. What other support do you consider that participants would benefit from before, during and after the Forum?**

Victim Support Scotland agrees that the Forum should have a support team in place, based on that of the TTBH pilot, to offer support to participants before, during and after the hearings. This team should consist of people with sufficient training, skills and understanding to support and meet the needs of survivors of childhood abuse.

We also agree that it is important that participants have the **option** of who supports them throughout the process. We are very supportive of the proposal that participants can, if they wish, bring a family member or friend to support them, or someone from an external support service.

It is essential that the process, and all those working within it, adopt a participant-centred approach, with all actions and decisions made in the interests of the participant. This should not be overshadowed by any other / specific objectives or aims of the Forum. Crucially, such an approach should include: keeping victims informed and involved in the process; allowing participants to express any concerns and to have these addressed, supporters / Forum staff being attuned to the suitability / readiness of participants to take part in hearings, and ensuring participants have adequate support in place to meet their needs and limit the risk of re-traumatisation.

Some participants, at the time of coming to the Forum, may well already be receiving, or have received, support from another agency. By enabling participants to bring a supporter from an external agency, this will facilitate a seamless and effective throughcare process for the participant, ensuring all the professionals / supporters involved in the process are better equipped to understand and respond to the needs of participants.

Many other participants will not otherwise be receiving (or indeed may never have received) support from any other service or agency. It is important that these participants are informed of and, where appropriate, referred to, external services where they can receive support. This will be particularly important at the conclusion of a participant's involvement in the Forum, to ensure any unmet needs and any complex sensitive issues/emotions arising during the hearings can be addressed. This can be achieved by the Forum providing access to other forms of support for survivors.

**Q8. Do you think that the participants should be protected from legal action in connection with their work for the Forum?**

Yes  No  No preference

It is a massive and hugely courageous step for someone to describe their experience of childhood abuse in such an open, albeit confidential, forum. The process may awaken extremely painful memories and emotions (which may be especially difficult if the participant has previously never discussed their experience or received any support). Provisions should be in place to ensure

participants can talk openly, and confidentially, about their experiences, without fear of becoming involved in legal actions which would re-traumatise them.

In order for the Forum to be effective in achieving its therapeutic and reparative aims, participants need to be confident that their confidentiality and rights will be respected throughout the process and that they will not be at risk of re-traumatisation through legal action. Victim Support Scotland therefore supports establishing the Forum on a statutory basis, modelled on the Irish legislation referred to in the TTBH Report, which would provide statutory protections for participants, safeguarding their confidentiality and mitigating risk of any legal action against them.

**Q9. Do you think there are any barriers that would prevent people who are eligible to take part in the Forum from participating?**

Yes  No

We wish to draw attention to the Scottish Government publication "*Yes You Can! Working with survivors of childhood sexual abuse*", which outlines a wide range of factors which can act as barriers to survivors openly broaching their experience of sexual abuse.<sup>1</sup> These include personal issues and perceptions such as: shame, guilt/self blame, fear, stigma, inability to trust etc.

There may also be practical factors which serve as barriers such as distance and/or location of the Forum, factors related to health of participants etc.

By addressing these (and any other) issues openly, sensitively and empathically in consultation with potential participants, will help to limit the extent to which they serve as barriers to participation. For example, participants may require reassurances that an alleged or convicted abuser will not be present/ involved in the process, and/ or they may be concerned that the abuser or institution will be informed of their participation and details of their disclosure / allegations.

In addition, the following provisions should facilitate participation:

- a good degree of flexibility/options regarding the manner and venue in which participants are heard (e.g. face-to-face, in their own home, via telephone or video link, written letter or email),
- information given in a manner which is most suitable to and easily understood by participants, taking account of, for instance, any literacy issues etc.
- the application process is straightforward and easily understood,
- participants are given assurances that their privacy and confidentiality will be respected and maintained
- Participants can choose the gender of their support person any expenses resulting from participation, e.g. travel expenses are reimbursed

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<sup>1</sup> *Yes You Can! Working with Survivors of Childhood Sexual Abuse*. Scottish Government, 2008

**Q10. Do you wish to add any additional points about the Forum?**

Yes  No

# Equality Impact Assessment

## Introduction

The public sector duties require the Scottish Government pay “due regard” to the need to:

- Eliminate discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010;
- Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- Foster good relations between people who share a relevant protected characteristic.

These three requirements apply across the “protected characteristics” of age; disability; gender reassignment; pregnancy and maternity; race; religion and belief; sex and sexual orientation.

In effect, this means that equality considerations are integrated into all the functions and policies of Scottish Government Directorates and Agencies.

A key part of those duties is to impact assess all our policies to ensure that we do not inadvertently create a negative impact for equality groups and also that we actively seek the opportunity to promote equality of opportunity and to foster good relations.

## The Aim of the National Confidential Forum

The aim of the National Confidential Forum is to give adults who spent time in residential care as children the opportunity to talk about their experiences.

In this section of the consultation questions we are particularly interested in finding out your views on whether the National Confidential Forum meets the needs of the following groups:

- Age
- Disability
- Gender
- Sexual Orientation
- Race
- Religion and Belief

Your responses to the questions will help us to carry out a full equality impact assessment for a National Confidential Forum.



## Questions

1. Do you think the creation of a National Confidential Forum will have a disproportionately negatively impact on particular groups of people in our target audience?

Yes  No

Comments

2. Do you think the creation of a National Confidential Forum will have a positive impact on particular groups of people in our target audience?

Yes  No

Comments

3. What negative impacts do you think the National Confidential Forum will have on a particular group?

Comments

4. What positive impacts do you think the National Confidential Forum will have on a particular group?

Comments

5. What changes would you suggest to reduce any negative impact you have identified?

Comments

6. What changes would you suggest to enhance any positive impacts you have identified?

Comments

7. Are there any significant issues we need to consider in relation to:

- Age
- Disability
- Gender
- Sexual Orientation
- Race
- Religion and Belief?

Comments