

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

Petitioner written submission, 16 June 2024

Thank you once again to the Committee for progressing with our cause. We also record thanks to Thompsons Solicitors and the Law Society of Scotland for their input. We have noted with interest your excellent questions made to the Redress Scotland witnesses and their responses.

Redress Scotland evidence – we would like to make our comments in regards to this.

1. We do not know of any survivor who has been successful in gaining redress and was surprised to hear that only 4% were denied access in 2.5 years. The Committee asked the reasons why applications were turned down, but this wasn't answered meaning we are still no further forward in whether other applications would be turned down.

Secondly, we are in receipt of a letter which the Panel sent to a survivor in 2023 which states:

“As you may be aware, the terms of the Redress Scheme restrict the types of placements which are considered relevant. They exclude short-term placements (ie for holiday or respite) and those involving family members ...” and further that “the placement listed above (Fornethy) will likely be disregarded by the Panel who make a decision on your application ..”

This goes completely against the Panel's explanations around who might be eligible since they said that decisions were made around the “balance of probability and truth” and **based on their circumstances** – in other words if Fornethy was indeed a holiday or respite placement then that would automatically bar their application? In this we feel we have been misled. Fornethy Survivors were not aware of their circumstances in how they came to be there – they are the victims.

2. In Dr Fossey's report she stated that there was **no evidence that parental consent was given**, and the Chair of Redress Scotland said that **they do “not necessarily have access to that information” either**, yet the Fornethy Survivors in their applications are expected to provide this evidence in support of their applications? How can this be? So, the information about the circumstances in which we came to be at Fornethy is a non-starter. How can the Redress Panel offer discretion therefore to some – who have been successful – when the basic need for evidence is missing? It's baffling to us. If you are ticking the criteria boxes in the application forms, then why was one of our applicants turned down saying that Fornethy did not meet the criteria?

It cannot be both ways surely. The Chair of Redress Scotland said that discretion can only be used in exceptional circumstances – that rules out the majority.

3. We now know, according to the archive records, that Fornethy was not a respite or holiday placement but was indeed a school. This surely changes everything about our eligibility to apply for redress and is not being taken into consideration.

Parents may or may not have agreed to send children, but the School Welfare Department were involved in making the referrals and children were entrusted into their care the same as they are when going to school daily – “in loco parentis”.

4. We find it difficult to digest that the independent organisation Redress Scotland, knowing the flaws of the scheme, did not fulfil due diligence in flagging up or making recommendations that the scheme was unfair and was unjust to abuse survivors, regardless of their circumstances. No concerns were flagged up.
5. Recent initiatives such as the “Me Too” and other institutional abuses from schools are taken seriously and believed – why not Fornethy? Why are we being treated unequally? The balance of probability is based on us all coming together sharing the same collective story. We have evidence too of discussions held on Glasgow Forums which corroborate our stories (years before the Survivors Group was formed) but without the basic criteria, how can we be successful? Our trust in the process is hampered by the injustice of the Redress Scheme.

Thompsons Solicitors

We are in complete favour of the submission urging the “Scottish Government to make the necessary amendments to the scheme’s guidance to ensure all survivors of abuse which occurred whilst in the care of the state are treated fairly, respectfully and equally”.

Law Society of Scotland

We welcome the Law Society’s view that “... all survivors of abuse should have access to appropriate redress” and its suggestion for a review to reflect on how the scheme is operating; whether it is achieving it’s intended aims; and taking into account the number of applications which are being rejected on the grounds of eligibility.

First Minister

The First Minister’s response states that the independent researcher concluded that records exist suggesting children were placed in Fornethy with agreement of parents for the purposes of a convalescent/recuperative holiday. This research is not supported by the research of the Survivors, nor have we seen the evidence that resulted in the independent researcher’s findings. This may have been the case just prior to 1945, after which the school was repurposed as a Residential School.