

# Citizen Participation and Public Petitions Committee

2nd Meeting, 2023 (Session 6), Wednesday 8  
February

PE1979: Establish an independent inquiry  
and an independent national whistleblowing  
officer to investigate concerns about the  
alleged mishandling of child safeguarding  
enquiries by public bodies

<b>Lodged on</b>	3 November 2022
<b>Petitioner</b>	Neil McLennan, Christine Scott, Alison Dickie, and Bill Cook
<b>Petition summary</b>	Calling on the Scottish Parliament to urge the Scottish Government to launch an independent inquiry to examine: concerns that allegations about child protection, child abuse, safeguarding, and children's rights have been mishandled by public bodies, including local authorities and the General Teaching Council Scotland (GTCS); gaps in the Scottish Child Abuse Inquiry; and establish an independent national whistleblowing officer for Education and Children's Services in Scotland to handle these enquiries in the future.
<b>Webpage</b>	<a href="https://petitions.parliament.scot/petitions/PE1979">https://petitions.parliament.scot/petitions/PE1979</a>

## Introduction

1. This is a new petition that was lodged on 3 November 2022.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. While not a formal requirement, petitioners have the option to collect signatures on their petition. On this occasion, the petitioner elected to collect this information. 1,770 signatures have been received.

5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe C** of this paper.
6. A submission has been provided by the petitioner. This is included at **Annexe D**.
7. The Committee has also received eight submissions from individuals and organisations with an interest in child safeguarding. These are listed in **Annexe E** and can be found on the [petition webpage](#). These submissions are generally supportive of the petition, with a number of them detailing personal experiences of reporting child safeguarding concerns to public bodies.

## Action

The Committee is invited to consider what action it wishes to take on this petition.

**Clerk to the Committee**

## Annexe A

PE1979: Establish an independent inquiry and an independent national whistleblowing officer to investigate concerns about the alleged mishandling of child safeguarding enquiries by public bodies

### Petitioner

Neil McLennan, Christine Scott, Alison Dickie, and Bill Cook

### Date lodged

3 November 2022

### Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to launch an independent inquiry to examine: concerns that allegations about child protection, child abuse, safeguarding, and children's rights have been mishandled by public bodies, including local authorities and the General Teaching Council Scotland (GTCS); gaps in the Scottish Child Abuse Inquiry; and establish an independent national whistleblowing officer for Education and Children's Services in Scotland to handle these enquiries in the future.

### Previous action

Have written to the Cabinet Secretary for Education and Skills in July 2021 and received a response in August 2021. We are also aware that Oliver Mundell MSP and other MSPs have corresponded with the Cabinet Secretary for Education and Skills on this issue.

### Background information

The #Unfeartie pledge is to have courageous conversations regarding children's issues and speak up and stand alongside children. We take these principles very seriously, and have supported whistleblowers in raising historic and current allegations about child protection, child abuse, safeguarding and children's rights matters.

The alleged mishandling of child safeguarding concerns in many public bodies (Edinburgh, Borders, Aberdeenshire, East Lothian and the GTCS) have been well publicised, with whistleblowers calling for a public inquiry, open to existing or new whistleblowers and the public to raise recent or historic concerns.

A number of written and oral parliamentary questions highlighting these concerns have been lodged by MSPs. These include questions to the First Minister from Christine Grahame, Willie Rennie, Meghan Gallacher and Douglas Lumsden.

The Scottish Child Abuse Inquiry focuses on historic abuse and is specific to children in care. A wider inquiry into safeguarding concerns and enquiries from parents, guardians, carers, professionals and the public, which have been mishandled, is needed. This should consider gaps in the existing inquiry; mainstream and specialised settings; and regulated children's activities.

## Annexe B

The logo for SPICe (The Information Centre) is a purple rounded rectangle. The text 'SPICe' is in white, with 'The Information Centre' and 'An t-Ionad Fiosrachaidh' in white text below it.

**The Information Centre**  
An t-Ionad Fiosrachaidh

Briefing for the Citizen Participation and Public Petitions Committee on petition [PE1979](#): Establish an independent inquiry and an independent national whistleblowing officer to investigate concerns about the alleged mishandling of child safeguarding enquiries by public bodies, lodged by Neil McLennan, Christine Scott, Alison Dickie, and Bill Cook

### Brief overview of issues raised by the petition

The petition is calling on the Scottish Government to launch an independent inquiry to examine:

- concerns that allegations about child protection, child abuse, safeguarding and children's rights have been mishandled by a series of public bodies; and
- childcare settings not covered by the remit of the Scottish Child Abuse Inquiry, including state schools and regulated children's activities.

The petition is also calling for the establishment of an independent national whistleblowing officer for Education and Children's Services in Scotland.

## The #Unfeartie pledge

In 2017, to mark 21 years of the Children’s Parliament, the [#Unfeartie pledge](#) was launched. The Children’s Parliament website states that:

“Unfearties are individuals who are courageous in discussing children’s issues, are making a difference in children’s lives, and who are willing to speak up for, and stand alongside, children.”

The name ‘Unfeartie’ is based on Edwin Morgan’s poem ‘Open the Doors’ written for the opening of the Scottish Parliament 2004 which included the line ‘A nest of fearties is what they do not want’.

At least 1000 people have signed the pledge to date. The petitioners state in their petition that they support this campaign and take the principles of it very seriously.

## Alleged mishandling of child safeguarding concerns by public bodies

The petition does not set out the examples of public body failings. Possible examples may be:

- The conduct of a social worker with City of Edinburgh Council, and the way in which historical complaints about him were dealt with at the time they were made. An inquiry into this was undertaken by Susanne Tanner KC whose [report](#) was concluded in October 2021.
- Scottish Borders Council response to allegations of abuse by a teacher of children with additional support needs. An [inquiry by Andrew G Webster KC was concluded in February 2022](#).

## General Teaching Council for Scotland (GTCS)

The GTCS is the professional body for teachers in Scotland.

The [GTCS wrote to the Education, Children and Young People Committee in March 2022](#) to set out its role in child protection. This said—

“This role is to regulate the individual teachers who teach children, young people and adult learners. We do this by keeping a register of teachers and setting and regulating the standards of conduct and competence expected of our registrants. ... Employers can take action that GTC Scotland cannot. For instance, they can

immediately remove an individual from a context. It is these partners who we refer to as on the frontline of child protection.”

### **Scottish Child Abuse Inquiry**

Set up in October 2015, the Scottish Child Abuse Inquiry is looking into the nature and extent of the abuse of children in care in Scotland. It is considering the extent to which institutions and bodies with legal responsibility for the care of children failed in their duty to protect children in care in Scotland as well as determining if any changes to practice policy or legislation are needed to prevent abuse happening to children in care in the future.

The terms of reference of the inquiry are specific to children in care and do not include abuse of children in any other settings, including schools or regulated children’s activities.

The petitioners are calling for a wider inquiry into child safeguarding concerns which have been mishandled, one that includes settings such as schools and regulated children’s activities.

In November 2016 Deputy First Minister and Cabinet Secretary for Education and Skills, John Swinney MSP, provided an update to the Scottish Parliament on the Scottish Child Abuse Inquiry. He stated that:

“I have to ensure a remit that is deliverable within a reasonable timescale. I have concluded there is a clear distinction between 'in care' settings and 'non in care' settings. 'In care' settings are those where institutions and bodies had legal responsibility for the long-term care of children in the place of the parent, with all of the legal and moral obligations that status carries. That is different to the position in 'non in care settings', such as day schools and youth groups, where others had a duty of care on a short term basis but crucially were not replacing the role of parents.

In too many cases, terrible crimes were committed in those settings too. Criminal behaviour should be referred to the police and I hope, where the evidence exists, this will be energetically pursued through the criminal courts.

If we set a remit which would in practice take many more years to conclude, we are failing to respond to those survivors of in care abuse who have taken us at our word – in Government and in Parliament – that we will learn from their experience and, by

addressing the systematic failures which existed, ensure it can never happen again.”

## Whistleblowing

The Employment Rights Act 1996 provides a process by which workers can make what is called a “protected disclosure” while being given legal protection from detrimental treatment by their employer.

In order to qualify, the disclosure must be covered by the legislation. This defines the type of information which can qualify and the process the whistleblower must go through to raise the issue. Disclosures which qualify for protection are defined in section 43B of the Act and include a range of serious wrongdoings such as criminal offences being committed in the workplace.

Further details can be found on [the UK Government’s guide “Whistleblowing for employees”](#).

## Scottish Parliament Action

In 2019 the Scottish Parliament received Petition [PE1717: Inquiry into the abuse of children in Scottish state schools](#). This petition noted that the Scottish Child Abuse Inquiry did not include in its scope those who had suffered abuse in other settings including state schools.

The Public Petitions Committee took evidence from the petitioner on [25 April 2019](#) and agreed to write to the Scottish Government and COSLA for additional information. Written submissions were received, however the petitioner withdrew their petition in December 2019, so no further action was taken by the Committee.

In response to the Committee’s request for further information, the Deputy First Minister and Cabinet Secretary for Education and Skills, John Swinney MSP, wrote in May 2019:

“I am conscious that there have been some questions about whether the remit of the Scottish Child Abuse Inquiry (SCAI) could be extended to also include all state schools. I have previously considered whether the SCAI’s remit should be widened to include abuse in other non-residential settings, and concluded in November 2016 that doing so would result in the Inquiry taking many more years to carry out its work. In conclusion I do not



consider that a separate inquiry should be considered for those that were abused in state schools.”

**Laura Haley, Ned Sharratt & Angus Evans  
Researchers**

1 November 2022

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at [spice@parliament.scot](mailto:spice@parliament.scot)

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

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## Annexe C

### Minister for Children and Young People submission of 28 November 2022

PE1979/C: Establish an independent inquiry and an independent national whistleblowing officer to investigate concerns about the alleged mishandling of child safeguarding enquiries by public bodies

Thank you for the opportunity to respond to the above petition. I am sorry for the delay in doing so.

The petition asks the Scottish Government to launch an independent inquiry to examine: concerns that allegations about child protection, child abuse, safeguarding, and children's rights have been mishandled by public bodies, including local authorities and the General Teaching Council Scotland (GTCS); gaps in the Scottish Child Abuse Inquiry; and establish an independent national whistleblowing officer for Education and Children's Services in Scotland to handle these enquiries in the future.

I want to assure you that the Scottish Government is committed to ensure that all children and young people grow up loved, safe and respected, through a consistent approach to care and protection.

#### Scottish Child Abuse Inquiry (SCAI)

As the Committee note, the Deputy First Minister has previously considered whether to widen SCAI's remit to include abuse that took place in different settings. He concluded in November 2016 that if a wider remit was set it would in practice take many more years for the SCAI to complete its investigations and produce its findings and recommendations. It would mean the Government failing to meet its commitment to survivors of in-care abuse, our commitment to learn from

their experience and, by addressing the systemic failures which existed, ensure it can never happen again.

As the Committee highlight, there is wider learning from SCAI and the Independent Inquiry into Child Sexual Abuse (IICSA) in England and Wales about cultural and organisational factors that made children less safe and allowed abuse to perpetuate, which can be applied to other settings and circumstances. Given this, and the actions set out below which we have taken, and continue to take to strengthen our child protection system, I do not consider that the scope of the SCAI should be extended or a separate inquiry should be established to consider concerns that allegations about safeguarding have been mishandled by public bodies.

As will be set out below, we are already working actively with public bodies on the implementation of the revised National Child Protection Guidance and to promote consistent and robust practice around the handling of any concerns.

### National Child Protection Guidance

The [National Child Protection Guidance in Scotland 2021](#) (“the guidance”) describes the responsibilities and expectations of everyone who works with, or comes into contact with children and young people, families and carers in Scotland. It incorporates our understanding of best practice from a range of sources, including practitioner and stakeholder experience, inspections, research, inquiries and learning from Significant Case Reviews.

This guidance is a comprehensive update of the previous 2014 version and was developed through a collaborative process informed by extensive public and stakeholder engagement, including a Scottish Government consultation. Whilst the guidance is non-statutory, the agencies primarily involved in child protection in Scotland, such as police and social work, have statutory duties of care and protection.

We expect everyone working with children to identify and act on any concerns to ensure the safety and wellbeing of the children concerned. Education authorities are responsible for preventing harm to the pupils attending their schools, and must take reasonable steps to prevent foreseeable harm, including harm caused by its employees to pupils. Every local authority is expected to have in place appropriate child

protection policies and procedures and effective processes to ensure that concerns about the safety and protection of children are identified and dealt with.

The guidance highlights that all agencies have a responsibility to recognise and actively consider potential risks to a child, irrespective of whether the child is the main focus of their involvement. It also, for the first time, makes clear that any concern around risk of harm to a child includes non-familial harm.

The guidance states that:

*Agencies working with children and families must provide clear and relevant information about how they work together with families and the community to promote the wellbeing and safety of children. This includes information about the ways in which early help can be provided to avoid escalating need and risk and about relevant protective processes when this becomes appropriate.*

*Relevant information includes advice about:*

- *what to do if a member of the public has concerns about a child*
- *sharing of information between core agencies, as defined in Part 3 of this Guidance, if there is concern about risk of harm to a child (as necessary, in a manner that is proportionate, relevant, accurate, timely and secure)*
- *next steps and follow-up when concerns are reported*
- *the role and responsibilities of named persons or of those professionals in universal services who hold a similar role*

A National Child Protection Guidance Implementation Group, chaired by the Deputy Chief Social Work Adviser, has been established to provide strategic oversight and offer support to local areas. Significant capacity is being devoted to support local areas to make the changes and adaptations required to align with the new national guidance. This includes a range of multi-agency activity and single agency activity to support specific sectors.

Creating more consistency and clarity around safeguarding roles, responsibilities, and information sharing practices is an area that my officials are actively pursuing with several bodies including GTCS, Police

Scotland, Disclosure Scotland, Education Scotland and the Care Inspectorate.

We are prioritising support for local areas and public bodies to implement the guidance and to continue to explore where further support or clarity is needed. We will work with partners to review and update the guidance when required by significant legislative, policy or practice changes on an annual basis, with a broader review every three years to ensure it remains relevant and up to date. We are strongly of the view that guidance implementation should be accompanied by a constant improvement journey. Via the National Child Protection Leadership Group, the National Child Protection Guidance Implementation Group, and the work we are taking forward with partners alongside them, we are assured that we have a strong basis already in place to support bodies on this journey.

In addition, both the IICSA and SCAI have, and will, come forward with many recommendations relevant to the handling and response to child safeguarding concerns which we will consider.

I hope that the Committee and petitioner find the information above helpful.

## Annexe D

### Petitioner submission of 11 January 2023

#### PE1979/I - Establish an independent inquiry and an independent national whistleblowing officer to investigate concerns about the alleged mishandling of child safeguarding enquiries by public bodies

The root of the victim's or whistleblower's plight is in the **power imbalance** that exists between themselves and the individuals, institution, or public body they find themselves at odds with or exploited by. Arrayed against the lone victim or whistleblower are huge obstacles. A public body's lack of openness and transparency accompanied by essentially unlimited resources to defend against whistleblowers, only compounds their plight.

To address this **systemic imbalance** and to provide victims and whistleblowers support and justice the petitioners have called for an **independent inquiry** into allegations related to child protection, abuse, safeguarding and rights that have been mishandled. We have also called for the **closure of identified gaps** in the existing SCAI and the establishment of an **independent national whistleblowing officer**.

The petitioners thank supporting submissions and those of the Minister and SPICe researchers and make the following observations.

- 1) The petitioners are calling for a **distinct public inquiry** into unresolved cases as alleged by whistleblowers and survivors. These include serious allegations relating to child abuse and child protection failures. Such a distinct inquiry therefore will not impact on the current inquiry's timescales.
- 2) Ministerial comments on the SCAI and IICSA relate to improving systems. Whilst welcome, we seek a distinct inquiry into **wider allegations** made. Whistleblowers have expressed concerns about unresolved child protection issues ranging from **malpractice to allegations relating to organised criminal child exploitation and trafficking**.

- 3) The Minister commends the **National Child Protection Guidance**. However, as both the petitioners and the Minister observe these are non-statutory.

The **lived experience** of whistleblowers sadly contrasts with the laudable aims of these guidelines. Using the experience of Edinburgh Council whistleblowers as an example. Whistleblowers experienced and observed a lack of support, managers not adhering to policies and procedures, apparent breaches of PIDA legislation, perpetrators of malpractice or cover up seemingly protected and supported, seemingly no consequence for their behaviour and actions. Whistleblowers found themselves ignored, ostracised, targeted, smeared and victimised. Some resigned their posts because of stress, some were subsequently declared surplus. Some felt pressured into signing NDA's.

The thematic **Tanner 2 Inquiry** highlighted just over one-tenth of whistleblowers responding were satisfied with the outcome. Shockingly, a third felt they suffered negative consequences. This thematic inquiry concluded that in Edinburgh “... *there is not a universally positive, open, safe and supporting whistleblowing and organisational culture*”. This culture developed despite the existence of National Guidelines.

Petitioners believe the National Guidelines are confusing, complexed, and somewhat contradictory. This impression was reinforced by a **BBC Dispatches** investigation into child abuse only last year. It reported the NSPCC as saying “... *a lack of communication and co-ordination between agencies remains a major problem in child abuse cases*”.

The CYPCS Annual Report<sup>1 2</sup> cited cases related to failures in child protection and safeguarding by public bodies and has called for the national guidance to be reviewed. The petitioners recommend the committee takes evidence from the CYPCS.

- 4) SPICe briefing refers to **protected disclosures** legislation<sup>3</sup>. This only provides redress after the event and does not provide support and protection during the whistleblowing process.

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<sup>1</sup> Published October after PE1979 initial submission.

<sup>2</sup> <https://www.cypcs.org.uk/wpcypcs/wp-content/uploads/2022/10/CYPCS-AR-2022.pdf> .

<sup>3</sup> Employment Rights Act 1996.

- 5) SPICe briefing observes that the petition does not set out examples. We have declined to do this here in order to protect whistleblowers and victims.

The briefing refers to the **Tanner 1 Inquiry**. Whistleblowers have expressed strong disquiet with the report's findings and dismay that the associated police investigation was closed on the death of the Senior Manager involved.

In addition to calling for a distinct inquiry into wider child abuse and safeguarding allegations, petitioners call for the **gaps in the extant SCAI** to be closed. The original PE535 petitioners specifically called for a picture of causes "*including antecedents, circumstances, factors and context of such abuse*" be established. This is reflected in the inquiry's terms of reference which include to "... consider the extent to which institutions and bodies with legal responsibility failed in their duty of care" and to "... consider the extent to which failures by state or non-state institutions (including the courts) to protect children". The terms also emphasise the importance of examining practice and policy. It has been publicly alleged<sup>4</sup> that specific historic allegations relating to child trafficking in care settings have been ignored by the current SCAI. Indeed, it is alleged that **adjustments in public policy** related to prosecutions **specifically facilitated child trafficking** in relation to children in care settings. It would not only be tragic but erroneous for these not to be investigated by the SCAI given its clear remit.

Lastly, the petitioners call for the establishment of an **independent national whistleblowing officer**. This should have the necessary statutory investigative powers to engage with public and non-public bodies in order to explore whistleblower allegations and to provide support and protection to both whistleblowers and victims.

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<sup>4</sup> Scottish Daily Express 28<sup>th</sup> December 2022



## Annexe E

### Additional submissions

[PE1979/A: Patricia Hewitt submission of 2 November 2022](#)

[PE1979/B: Claire Mooney submission of 3 November 2022](#)

[PE1979/D: Anonymous submission of 22 December 2022](#)

[PE1979/E: Edinburgh Peace Institute submission of 28 December 2022](#)

[PE1979/F: Anonymous submission of 3 January 2023](#)

[PE1979/G: Clare Chalmers submission of 7 January 2023](#)

[PE1979/H: Stephanie Morrison submission of 10 January 2023](#)

[PE1979/J: Anonymous submission of 14 January 2023](#)