

# Citizen Participation and Public Petitions Committee

3rd Meeting, 2024 (Session 6), Wednesday  
21 February 2024

## 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>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. The Committee last considered this petition at its meeting on [7 February 2024](#). At that meeting, the Committee were joined by –
  - Alison Dickie, Petitioner
  - Bill Cook, Petitioner
  - Neil McLennan, Petitioner
  - Brendan Barnett, Whistleblowerfor roundtable discussion on the actions called for in the petition.
2. Key points raised during the roundtable discussion included –
  - Need to robustly investigate and resolve safeguarding allegations before undertaking policy reviews

- Failure of public bodies to follow national guidance due to its non-statutory status, and an inconsistent approach to information gathering and sharing between relevant agencies
  - Concern that allegations are not fully investigated at the time, with inquiries taking place many years after the event, and the impact this has for confidence in local authorities and public bodies
  - Strengthening the role of the Children and Young People's Commissioner Scotland, and the legislative change and additional resource this would require
  - Creation of a national whistleblowing office for education and children's services to provide a route for individuals to access guidance, support, and a structured procedure when raising concerns.
3. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
  4. The Committee has received a new response from the Petitioners, which is set out in **Annexe C**.
  5. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
  6. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.
  7. The Scottish Government's initial position on this petition, provided by the then Minister for Children and Young People, can be found on the [petition's webpage](#).
  8. Every petition collects signatures while it remains under consideration. At the time of writing, 1,856 signatures have been received on this petition.

## For Discussion

The Committee is invited to reflect on the evidence it heard during the roundtable discussion.

**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.

We support the #Unfeartie campaign, which was set up by the Children's Parliament in 2017.

## 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

### Extract from Official Report of last consideration of PE1979 on 7 February 2024

**The Convener:** Welcome back to the committee's second meeting in 2024. Our second evidence session is on PE1979, to establish an independent inquiry and an independent national whistleblowing officer to investigate concerns about the alleged mishandling of child safeguarding inquiries by public bodies.

The petition calls on the 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, and that there are gaps in the Scottish child abuse inquiry, which we have discussed. The petition also calls for the establishment of an independent national whistleblowing officer for education and children's services in Scotland to handle such inquiries in future.

The petition was lodged by Neil McLennan, Christine Scott, Alison Dickie and Bill Cook, three of whom are with us this morning.

We last considered the petition at our meeting on 4 October 2023. At that stage, we decided that we would like to hold a round-table discussion on the issues raised and to welcome the petitioners to join us, if they were available. Unfortunately, Christine Scott is unable to be with us today, but I welcome Brendan Barnett, who joins us in Christine's place.

Neil McLennan is a former teacher who has written on the topic of safeguarding gaps. Alison Dickie is a teacher and former Edinburgh councillor. As vice convener of the council's education, children and families committee, she raised the concerns of whistleblowers who came to her for support. Bill Cook is also a former Edinburgh councillor. The petitioners' submission to the committee describes him as the political lead on the introduction of Edinburgh's new whistleblower system in 2014.

Before we begin the discussion on the issues raised by the petition, I understand that, as participants, you have prepared brief statements and that you would like to share them with the committee today.

**Bill Cook:** We thank the committee for giving us the opportunity to speak today. My three fellow petitioners are all education professionals. They share decades of experience of teaching children. Two have contributed to the development of education policy. Three of us have been elected to public office and Brendan Barnett is substituting as a senior criminal justice social worker.

We all share serious concerns about the alleged failure of public institutions to properly investigate allegations relating to safeguarding. In bringing our concerns to the committee today, we do not want to take away from the amazing work of individuals right across Scotland who each day help to protect and educate our children. Neither do we want to detract from the good work that is being done to improve safeguarding. We are concerned about when things go wrong and what recourse there is for the ordinary citizen.

Committee members will be aware that supporting submissions include distressing and deeply worrying disclosures. One parent refers to illegality and maladministration. Another refers to a culture of coercive control. Yet another refers to significant negligence and incompetence. Another parent laments, "We have nowhere to go".

There are also worrying misapprehensions evident in the institutional responses to the petition. Some appear not to even recognise or acknowledge failings. We would be happy to expand on that in our discussion.

The root of a victim or whistleblower's plight is the power imbalance that exists between themselves as individuals and the institutions or public body that they find themselves at odds with or exploited by. That is a systemic imbalance. Ranged against a lone victim or whistleblower are the huge obstacles of a public body's lack of openness and transparency accompanied by essentially unlimited legal and financial resources to defend against allegations.

I will conclude now with the Children and Young People's Commissioner Scotland's response to our petition. The commissioner observed that

"International human rights law states that children are entitled to higher standards of protection"

and that

"There is a clear positive obligation on the State to ensure that child protection, safeguarding and whistleblowing investigations ... are sufficiently thorough, independent and robust."

That is a standard to which our country should aspire.

**Alison Dickie:** I was Edinburgh's vice convener of education, children and families for about five years. In that time and beyond, many whistleblowers came to me in desperation, although not all were related to child protection. Some I supported for a long time, others simply shared allegations, which I raised in appropriate ways. Some answers and findings reassured, while others gave rise to more questions and common concerns emerged.

It is difficult to communicate these sensitive matters in a public setting, but it is important to help members understand why action is needed. What follows is a high-level summary of past and present allegations: serious and organised child abuse in Edinburgh and beyond, supported by public funds and named professionals; the covering up of a pattern of behaviour among male teachers that was related to physical abuse; social workers withholding information from records and placing children at significant risk of physical, sexual and emotional abuse; questionable non-disclosure agreements and timings of civil settlements for abuse victims; children wearing layers of clothing to meet social workers and not all perpetrators of abuse in care being held accountable; public body interference in investigations and intent to pervert the course of justice; years in foster care without permanency assessment; inaccurate reports; cover-ups of mishandled child protection in schools; misuse of public money by a deceased officer and serial abuser; mismanagement of sex offenders back into the community; safeguarding gaps in the Swift system and access to children's records; and viewing neurodivergent families through an inappropriate child protection lens, resulting in the unlawful removal of children, who were thus made even more vulnerable, and allegations of abuse in care followed.

I worked with others across parties to raise concerns, but it was the bravery of the Sean Bell whistleblower that led to the Tanner inquiry, the whistleblowing review and the opportunity to raise and air some of the allegations more widely. However, narrow terms of reference restricted the much-needed investigation and whistleblowers believed it to be a whitewash.

I resigned from my party and brief in January 2022, mainly because I needed to speak and vote more freely. I was concerned at the lack of robust scrutiny of child protection matters and the overreliance on officer information—fantastic as many of those officers are—and the findings of a restricted inquiry.

Although some of the allegations were made within the past 10 years and could be regarded as historic, the systems and many of the personnel are not. All unresolved allegations impact the confidence that we can have that we are ensuring the highest standards of protection for our children.

**Brendan Barnett:** It is a sad reflection that, after so many child protection scandals where local authorities and other agencies have failed to protect children, such as Rochdale Borough Council and Edinburgh Academy, concerns continue to be raised about the fitness of certain local authorities and police services to fulfil their safeguarding duties. Just as concerning is the failure of regulatory bodies such as the Scottish Social Services Council and the GTCS to properly monitor professional standards and investigate malpractice within local authorities. Those are just some of the reasons for today's petition.

More specifically, and with regard to local authorities, a number of us have witnessed a major Scottish local authority prioritise the protection of its reputation and the

targeting of whistleblowers over the protection of children. It is our view that the Tanner inquiry into the culture of that local authority was constrained by the narrowness of its terms of reference. From the outset, concerns were expressed about the perceived independence of key players and the inquiry in general. It is of note that the inquiry's recommendations have still not been fully implemented.

Since the Tanner inquiry, concerns have continued to be raised about that local authority's failure to protect children. Whistleblowers have raised on-going concerns about the following: the insecure storage of and untraceable access to confidential information regarding vulnerable children; erratic risk management planning for the release of sex offenders into the community; the failure of criminal justice social work managers to ensure that social workers complete key duties in relation to risk management and child protection and to ensure that all relevant information is gathered and shared with partner agencies; the failure to hold managers in the children and families department to account on who protected and/or supported perpetrators. Some of those individuals have been allowed to leave their posts without being held to account for their actions and their roles in possible cover-ups.

Those concerns are compounded by other Scotland-wide failings, such as: parents having no established referral pathway when raising concerns, because they are not covered by the Public Interest Disclosure Act 1998; the failure of regulatory bodies to investigate serious concerns raised by parents and whistleblowers; the lack of transparency and accountability in regulatory bodies such as the SSSC; the opaque nature of the relationships between local authorities and regulatory bodies.

To conclude, there is an illusion of protection for whistleblowers under the Public Interest Disclosure Act 1998 and by qualified and debatable support from organisations such as Safecall. The reality is that whistleblowers are targeted, victimised and harassed by their employers. That has a severe impact on their physical, mental and financial wellbeing. Their isolation is compounded, and children put at risk by the fact that there is no independent body whistleblowers can turn to for advice or support. Many of the whistleblowers supporting the petition have found uncomfortable parallels with the Post Office scandal. Whistleblowers' concerns have been ignored by senior local management, local authority managers, the Tanner inquiry, elected representatives, regulatory bodies, Scottish Government departments and their own trade unions.

**Neil McLennan:** I thank the clerks for facilitating online access.

I will start with some background. In early 2021 I wrote an article on the difficulties that were facing people who were raising education issues on topics such as the curriculum and national guidance. As a consequence of reading the article, people contacted me with their concerns. A common theme that emerged was that children—especially the most vulnerable—were being poorly treated and not safeguarded, and when issues were raised they were being mishandled. Those



cases and my professional experience and knowledge as a former council education officer highlighted a policy gap in relation to safeguarding of children.

I alerted the GTCS about my concerns and the Children and Young People's Commissioner Scotland and the Scottish Government later highlighted the gap to the GTCS. To date, the gap remains. The gap is quite simply that local authorities mishandle protection and safeguarding reports and the GTCS will not look at reports unless the employer refers them to the GTCS.

I engaged in further research, in which 15 technical freedom of information questions showed that over a three-year period the GTCS filtered out 196 referrals that had been made to it regarding teacher conduct. The referrals were not investigated at all by the GTCS.

Further research showed that, no matter the civility of the referral or the evidence accompanying it, referrals still get responses from the GTCS saying that they are "frivolous" if the matter was not first passed to the employer, which is most often the local authority. The GTCS told Government officials, in response to parliamentary questions, that it looked to change the word "frivolous" in the next policy review, but the term is still being used despite a recent policy review.

Additionally, it should be noted that the GTCS does and has changed FOI responses in its public FOI log and has done so without informing either the public or the initial FOI requester of the changes to the specifics.

The GTCS refused to tell Willie Rennie MSP how many of the 196 cases were child protection and safeguarding related. That matter was in Parliament in 2012. Further research, again using FOI, revealed that 47 of the 196 referrals were safeguarding and child protection related.

The GTCS claims that the police were aware of cases and when the police were not aware of cases it alerted them to the case. The question was asked how many cases the police were alerted to: the answer was that one case was passed to the police by the GTCS.

I have heard about and seen the obstacles that professionals, parents and the public have in raising evidenced concerns in good faith. The obstacles include senior officials of a Scottish local authority threatening a university, saying that they would consider withdrawing public funds because of FOI questions relating to child protection policies. That exemplifies how serious issues can be dealt with by public bodies. People who ask too many questions face intimidation and corruption, using public funds. Employees face their careers and their reputations being crushed because of the managerial and financial power of the large organisations. Parents and the public are gaslit, dismissed and/or intimidated.

The policy gap that has been evidenced undoubtedly has implications in respect of protection of children. That, coupled with the inherent challenges that the committee

has already recognised in relation to whistleblowers, presents a real and ongoing risk to protection of children in Scotland.

I will be happy to expand on those points in the round-table discussion, and I thank the committee for the opportunity to share further information.

**The Convener:** Thank you, Mr McLennan. Your sound improved two-thirds of the way through but, concentrating hard, I was able to hear the early part, as well.

I thank you very much for your four statements, although I should say that they have taken up quite a bit of the time that we have available this morning. They have detailed some areas that we might wish to explore, which is now on the record for us to study.

Alison Dickie and Neil McLennan went through a series of concerns about identified mishandling of child safeguarding issues. Without giving details that might lead to identification of individuals, are there examples that you could illustrate more comprehensively without betraying any confidences?

**Alison Dickie:** That is very difficult to do in a public setting. We had originally thought that the meeting was going to be private; we had raised concerns about the matter. We have tried to give you top-level information to give you an idea of the range and scope of allegations that are still unresolved for whistleblowers and the people who are at the heart of the cases. The purpose was to show you the seriousness of the unresolved matters, because I do not think that that has come through to the committee yet.

We can explore some of the processes. It is often hard to know who is investigating. The concerns are Scotland-wide, but let us take Edinburgh as an example. We eventually got an inquiry in which all the concerns might have been investigated in depth to help to resolve them, but the terms of reference were restricted, so that did not happen.

Whistleblowers and people at the heart of cases feel that they are punted around left, right and centre, that nothing ever happens and that their cases are not resolved. People say to them that it is somebody else's responsibility. It is hard not to go into the details of a case, so I will not say more. However, there are cases all over the place that never get properly, thoroughly and independently investigated.

**Bill Cook:** We are constrained, but much of the particular case that I have in mind is in the public domain. A young person made an allegation some years ago, but they were ignored and there was no further investigation, at that point. Some years later, that person was contacted because another person had been subjected to abuse. There was a police inquiry at that point. Ultimately the individual who was the predator, was imprisoned, in 2006.

In 2017 there was a serious case review that identified that that particular individual could have been identified 20 years earlier. The case review said that there should be a further investigation, because other things had come out during the course of the review. The chief executive at the time instructed a further investigation. That investigation did not take place. In 2020 there was another whistleblowing disclosure, and the situation was revisited. At that point it was found that some of the allegations and issues that been identified three or four years earlier were still present. That illustrates that such things take a long while. In that example no action was taken, even though problems had been identified fairly recently.

**The Convener:** That illustrates what Alison Dickie said about lack of direction.

**David Torrance:** Why would the petitioners like to see an inquiry being set up before the conclusion of the Scottish child abuse inquiry?

**Bill Cook:** There is perhaps a misapprehension. We are suggesting that a whistleblowing system should be put in place. We believe that there are gaps in what the current inquiry is looking at. We can discuss that further.

On the unresolved issues, we are simply saying that we believe that there should be investigations and inquiries into those matters. We are not calling for a public inquiry to be set up; we just feel that there are things out there that need to be investigated thoroughly.

**Alison Dickie:** Members can get the sense that there are unresolved issues not just in Edinburgh, but across Scotland. The point that we have tried to make from the outset is that for people to have confidence in current child protection services, there cannot be all those issues sitting out there unresolved. They need to be thoroughly investigated: there should be a distinct investigation of those unresolved cases. We are not judging; we are just saying that they should be investigated. It could be said that lessons have been learned, but you cannot learn lessons unless you know the conclusion of a case.

We have never suggested that the matter should be added to the Scottish child abuse inquiry, because we would not want in any way to lengthen any such process for children in care. We are asking that the gaps be addressed distinctly. We have talked already about issues being raised in education and related to children's regulated activities. There are gaps and they need to be addressed.

We are just about to implement children's rights; it is clear that children should have the highest level of protection. There should not be a defensive culture, as has been felt to be the case throughout. A new campaign started yesterday that asks, "What if you're right?" However, it does not feel as if that is the culture across Scotland. We want to build on that, so we are asking for more robust scrutiny, an investigation and a national whistleblowing officer for children's services.

**The Convener:** Mr McLennan, if you would like to contribute, raise a hand. The clerks will see that and let me know that you are trying to come in.

**Neil McLennan:** This example is in the public domain. Christine Grahame MSP raised very serious concerns, very passionately, about issues that had happened in Scottish Borders Council, which were investigated by Andrew Webster KC. That is a finalised case, but we are seeing replication of such cases in other areas. Some Scottish local authorities are clear that they have a challenge in investigating very serious matters. There can be potential conflicts of interests and they might need to pass the issue to expert teams in childcare for investigation. The national health service recognised the issue and put in place an independent national whistleblowing officer. I firmly believe that there should be one in education and children's services, as well.

With regard to the Scottish child abuse inquiry and Mr Torrance's question, there is a specific focus in that inquiry that would not capture the range of unresolved allegations. As was said, the vast majority of people get on very well in education but, sadly, when it goes wrong it can go terribly wrong. There are such cases within education and children's services. Christine Grahame MSP has in the past raised concerns about very serious allegations involving youth football, which clearly would not be covered by the Scottish child abuse inquiry as it currently stands. Religious bodies also might not necessarily be covered, so the gap needs to be closed.

As Alison Dickie rightly said, before we start putting together systemic changes in how we protect our children, we need to thoroughly and properly investigate unresolved allegations in order to fully understand where things have gone wrong so that we can put them right for the future. It is very important that unresolved allegations, historical and current, require robust independent scrutiny. The current system does not allow that independent scrutiny.

**David Torrance:** What concerns do the petitioners have about the current procedures, statutory duties and national child protection guidance?

**Bill Cook:** The problem with the national guidelines is that they are not statutory. The phenomenon of people not adhering to guidelines was identified in the Government's child protection improvement plan, in which there was a direct reference to the issue of reliance on guidelines. It is recognised that sometimes guidelines are not followed. That is the problem. We can commend the guidelines and say that they are excellent and that a lot of good work has been done on them, but what happens when the guidelines are not implemented?

Reference has been made to the Tanner inquiry, which identified and stated something to the effect that in Edinburgh there is not a safe culture for whistleblowing and problems exist. That is despite the fact that there are national guidelines. There is plenty of evidence out there that guidelines are guidelines, and might not be implemented.

**Neil McLennan:** I have a couple of points to add. It is absolutely right that there are guidelines, but they are not statutory requirements, and that presents a challenge. Serious concerns have been raised about the guidelines. There is lots of good in them, but a policy should be something that a practitioner can lift and easily use. However, they have been described variously as contradictory and confusing.

There is a range of issues with them. For example, it has been highlighted to the Scottish Government that the Scottish Fire and Rescue Service appears more regularly in the national child protection guidelines than the General Teaching Council Scotland appears, which is odd. That is one example, but there are lots of areas in them that are of concern. The Children and Young People's Commissioner Scotland—the national expert body for safeguarding children and children's rights—has raised a range of issues with the Government about the child protection guidelines. To my knowledge, not all of that has been progressed in policy reviews.

I will go back to Alison Dickie's point, which is important. We should look again at the child protection guidelines and rethink and amend them. However, to Alison's point, until we have conducted a thorough and independent inquiry into unresolved historical and present allegations, there is little point in moving guidelines without detailed knowledge of what has gone wrong in the cases that have gone before. The Andrew Webster KC inquiry clearly details breakdowns throughout the process of a child protection issue being raised, and there are multiple examples of that across the country. Until they can be tabled, there is little point in trying to manoeuvre things to cover cracks. It needs a belt and braces review.

**Brendan Barnett:** I come at the guidelines from a criminal justice perspective. There are national guidelines, multi-agency public protection arrangements guidelines and local authority guidelines for the risk management of high-risk sex offenders and violent offenders. Local authorities have guidance for their social workers, and there are national guidelines through the multi-agency public protection arrangements.

I used to chair case conferences that were very similar to the set-up in here. If we had a serious sex offender who was due for release, I would have a social worker before me and I would ask, "What are the plans, what are his risks and how are we going to cover those risks? Do we need to make any arrangements, where are the victims and where are we going to house him?". What was really disturbing was the way that the national and local guidelines on risk management—which were about due diligence and having an investigatory approach to information—were not followed.

I will draw a parallel. I was watching the Grenfell disaster inquiry. What struck me was the number of times that an agency said, "We always assumed the other agency had shown due diligence. Therefore, we didn't have to, because we trusted the other agency". Doing my job, I regularly found that social workers said, "We trust the prison's assessment and we trust the children and families department's

assessment”, and they had not done their own assessment. Each agency would say the same about the other. There was a failure to follow national and local guidelines. When I took the issue to the local authority and then to the SSSC, the SSSC refused to investigate. The risky behaviour that goes on is astounding. I just wished to make that point about national guidelines.

**Alison Dickie:** You asked about the national child protection guidance that has not long been updated. My experience has been, and I have always believed, that child protection is a constant improvement journey. That is exactly what the Scottish Government has recognised and is promoting out there. However, that has not been the experience. There continues to be the defence that everything is in place and is fine.

I will go back to the convener’s original point. As I have said, I will try not to go into cases. Some issues are about agencies sharing information between them. In one particular case that I can think of, I do not think that key information was shared, which would have absolutely helped that situation. I know that that has been addressed a wee bit in forward improvements.

There is a lack of scrutiny. Members and councillors have busy lives, so they have to listen to whistleblowers—I could have said, “I don’t want to listen to you”. You come at it from a different perspective when you are scrutinising officers’ reports, because you are more informed.

I have sat on multi-agency groups on public protection, and it feels as though there is not much discussion at those forums. There has probably been a lot of discussion before those meetings, but I would have liked to have seen more questions and scrutiny in those environments.

Another issue is that some cases are considered to be too old or historical, and we hear, “We’re not resourcing historic. Wouldn’t you rather focus on the current?”, which misses the key point that the past is connected to current child protection.

Another issue is that information is too limited to identify criminality, yet, to me, some of it is quite stark. It is then directed back to the public body or the social worker—the source of the allegation—and, of course, the whistleblower does not want to go there. We have the Safecall system, but the inquiry has highlighted the flaws in that.

You can see that there a lot of different things that jar and lead to people in all sorts of corners all over Scotland shouting, “Please listen to us and let us all work together for more robust scrutiny”.

**The Convener:** I want to move on, because I am conscious of time.

**Maurice Golden:** Witnesses have mentioned guidelines not being adhered to. I am particularly interested in the local authority perspective. Do you think that that is a result of resource constraints or culture—or both? Do you have an assessment of

how local authorities across Scotland are adhering to guidance? Are there examples of best practice or worst practice? Is it a similar picture across the country? Do you have that information?

**Brendan Barnett:** I cannot speak Scotland-wide. In my post in a major local authority in Scotland, I had access to reports from all over Scotland of offenders moving to my city, for instance. I would ask for information, and I would find the same erratic compilation of information. My job was to ask, "What are the gaps in the information? Please go and find it".

On risk management in relation to information, the Probation Service in England has a much better system. For example, in the tragic case of the two teenage killers in Warrington, which we have heard about this week, all the information and assessments on them, including the psychological assessments, will be sent to the Probation Service. It will have a full file of information. In 20 years' time, when somebody makes a risk assessment as to how and when those individuals might be released, they will have a huge amount of information.

That does not happen in Scotland. After 20 years, somebody in my position gets a court report and has to ask where all the other information is. I have often had to refer to press reports to get the details of offences, because, in Scotland, the procurator fiscal's office does not send out files of information out—that is too costly. We have to go out seeking reports and asking the police for information. It is not a comprehensive system.

I am sure that there is some excellent work in every authority, but there is also some dreadful work.

**Alison Dickie:** Without a doubt, resources are an issue. It is an issue in social work, children's services and education. We also know that culture is an issue, because the Tanner inquiry pulled that out, in particular.

We are saying, "Dig deeper". Let us not be naïve about what is out there. Our children need the deepest of investigations. From the nutshell that I gave you, you can see why I cannot say that everything is okay.

**The Convener:** Mr Ewing, I noticed that you were following that exchange with interest. Would you like to come in?

**Fergus Ewing:** I thought that Mr Barnett's comments were apposite and that we could perhaps learn from the cited example of the experience in England.

I want to ask about the establishment of an independent national whistleblowing officer. First, how would that help to address the concerns? Secondly, would a new public body be required to fulfil that function, or could that be made an explicit function of the Children and Young People's Commissioner Scotland?

**Bill Cook:** Giving the commissioner that function might be a way forward. The thing about whistleblowing and public inquiries is that we see public inquiries taking place 10, 20 and 30 years after the events. We need an intervention that can change things at the time and in a way that gives support to and perhaps champions the whistleblower or the person who is being victimised.

I hope that that answers your point.

**Fergus Ewing:** That makes a lot of sense. I am attracted by the idea that it be made an explicit part of the commissioner's functions, perhaps even on a statutory basis, as that would avoid our having to create a new public body.

Let us assume that that happens, and that it helps things to be done more quickly, as opposed to what is happening in the Edinburgh Academy case, in which we are looking at events that took place decades ago. What happens if the commissioner or whistleblowing officer says this and that should happen but the local authorities, for example, do not agree? Where would the matter go from there? Would it go to ministers or to the press? These may be sensitive matters. How would a dispute between the whistleblowing officer and the relevant public authority be handled or resolved?

**Bill Cook:** That is an excellent point, and I am not sure that I have the answer to that.

**Brendan Barnett:** I think that there would be a role for the professional regulatory bodies in that circumstance. I will tell you what my problem was. I raised issues with my employers, as I did not want to draw them into disrepute. I wanted to tell them that we had a problem that was a risk to the public. My job is risk management and my manager told me, "Don't ask so many questions". Can you imagine my telling you that?

I then raised that with the SSSC. I said: "There are problems—they're not following the risk management guidelines. It's a professional issue. You need to address this". The SSSC would not address the issue. Therefore, it is not only an issue with the local authority; it is about the professional standards of the individuals within those authorities.

**Neil McLennan:** You made two very sound points, Mr Ewing, and I want to pick up on both of them. We are talking about checks and balances here. Local authorities marking their own homework in the very serious issue of child protection is a major risk. If we take the police service as an example, Police Scotland might have another force investigate an issue. However, even that approach has been questioned—even though that is presented as being independent, it is still a case of the police investigating the police.



The NHS has grappled with the issue and put in place an independent national whistleblowing officer, which avoids the issues that we face in relation to local authorities. I have outlined the concerns about local authorities.

GTCS has clearly stated to Parliament that it is not on the front line of child protection. It has a specific role in legislation on regulation and registration, which is separate. An INWO—independent national whistleblower officer—would give that umbrella assurance and stops some of the cracks in the system.

I very much understand the attraction of adding responsibilities to the remit of the Children and Young People's Commissioner Scotland, and Parliament may wish to discuss that. I will raise a couple of points in that regard.

First, commissioners have a very specific locus and the INWO role may detract from the locus that they have, so perhaps it would need to be separate.

Secondly—this hits on your point—one of the challenges that the Children and Young People's Commissioner Scotland has is its enacting legislation. One part of the legislation states that the commissioner can report on and make a recommendation to a public body, and they can instruct them to respond, but the next part says that the public body can simply write back to the commissioner to say why it is not carrying out its recommendation. Ultimately, although the commissioner is given teeth, its teeth are then taken away.

People saw the need for the NHS to have an INWO. We have highlighted gaps in education and children's services. When, I hope, we come to setting up an INWO in that area, the legislation must be framed in such a way that the officer has the ability to progress things rather than being hamstrung by it. The part of the children's commissioner's legislation to which I referred really hamstring them. There are examples of the commissioner writing to public bodies in which they have simply ignored the commissioner, because the legislation allows them to ignore the recommendations of the body that has oversight of safeguarding of children in Scotland.

**The Convener:** Mr Ewing, I am conscious that we are into our last five or six minutes for this item.

**Fergus Ewing:** I am very concerned about the general issue of public bodies marking their own homework. When any complaint is dealt with, whether it is a complaint about staff or management, there is a tendency to circle the wagons, and nothing very much ever happens. That concern is real, and the answers from our witnesses have been very helpful.

I postulate that one solution to resolve the question of what happens if the whistleblower's recommendation is ignored could be, if it is a criminal matter, to refer the case to, for example, a children's panel. If it were not a criminal matter and therefore outwith the remit of the children's panel, could there be a procedure to refer

a matter to the Scottish Government's children's minister? That, albeit not a perfect remedy or disposal, would at least provide a route to take. I am just thinking out loud here; I have no expertise in this area at all. Would either of those possibilities, or other possibilities, be something that you might want to consider and come back to us on, given the current time constraints?

**The Convener:** Yes, it would be helpful if the witnesses could reflect on that, and maybe on the earlier answer as well. We would be very happy to receive any further submission, given that there was some uncertainty beforehand.

Mr Choudhury would like to come in, and I am keen to give him the opportunity to do so.

**Foyso Choudhury:** I seek clarification on an issue that my colleague Mr Ewing has raised. How would a national independent whistleblowing officer bridge the gap in current safeguarding provision? I know that a lot has been said about that, but do you have anything further to add?

**Bill Cook:** One of the advantages in having such a system is that it raises the standard. Earlier, reference was made to the wagons circling. Having an independent body adds another element to how authorities or institutions might operate, given the fact that they might be subject to independent scrutiny. If a whistleblowing system officer had the investigative powers and the links that have been alluded to, that might change behaviours. That is part of this.

**Brendan Barnett:** A whistleblowing office would also act as a focal point for people who have raised concerns about unsafe practice. All of us—and all the whistleblowers whom I have ever met—have all been isolated and roamed around. I have gone down this pathway to try to address the issues, but there is no guidance or support for anyone.

I keep making reference to other issues. However, the Post Office workers formed their own group, which enabled them to move forward. Whistleblowers cannot do that. They are all very isolated and they do not know who else is a whistleblower. If an office is established, that would be able to give guidance and support, and to set out the procedure as to how to investigate serious issues.

**Alison Dickie:** It is about bridging the gap between marking your own homework and the need for independence.

I go back to Mr Ewing's question about the Children and Young People's Commissioner Scotland. There are many people with unresolved issues. That is a huge resource issue. Therefore, although it would be ideal for the commissioner to take on the role, they would need far greater resourcing in order to take forward a whistleblowing function. There would also need to be changes to the legislation to direct public bodies to act.

My final point is that, even if we are putting it back to the Scottish Government, people could say that that is the Government marking its own homework. We need to think about all those things and find an independent route that targets the gaps and ensures that we mop up all the unresolved concerns.

**The Convener:** Thank you. We have packed a lot of information into this past hour, which I will want to have some time to reflect on when we get the Official Report. Some of the issues that have cropped up have maybe prompted thoughts of additional information that you might like to contribute to us, and we will be very happy to receive that in advance of our next consideration of the petition.

We have a fairly packed agenda this morning. I am sure that we could probably have packed more information into an extended discussion. I thank all four of you very much for taking the time to join us here in Parliament this morning. We will keep the petition open, and we will have an opportunity to reflect on the evidence that we have heard and to decide on next steps. We look forward to hearing from you further as appropriate.

## Annexe C

### Petitioner submission of 13 February 2024

#### PE1979/X: 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 Petitioners again thank the Committee for considering our petition and giving us the opportunity to speak directly to you. We also appreciate the consideration Members gave to the petition and the questions posed. We hope our opening statements and answers were informative.

As was recognised by the Committee, the public setting of the roundtable constrained discussion somewhat. Petitioners would therefore request a private session so that matters can be explored further by the Committee. The Petitioners had also hoped to discuss the gaps in the current SCAI (Scottish Child Abuse Inquiry) which we believed haven't previously been addressed by the Committee.

As previously mentioned, Petitioners don't believe it appropriate to investigate individual cases but do think a further less restricted discussion supports better scrutiny and decisions around the call of the petition.

Lastly, the Petitioners have given further thought to the questions posed and suggestions made by Members. Particularly, those put in relation to the setting up of an Independent National Whistleblowing Office (INWO) and the accountabilities and strains referred too. It's our intention to follow up on this with a further note to the Committee.

Best Regards

Alison Dickie, Christine Scott, Neil McLennan, Bill Cook