

Rhona Brankin  
Convenor  
Petitions Committee  
Scottish Parliament  
Edinburgh EH991SP

Duncan Wilson  
The Optima Building  
58 Robertson Street  
Glasgow  
G2 8DU

18 November 2010

Dear Rhona Brankin

## **CONSIDERATION OF PETITION PE1351**

The Scottish Human Rights Commission (the Commission), as you are aware, was created by the Scottish Commission for Human Rights Act 2006 with a mandate to promote and protect human rights of everyone in Scotland. In June of this year the Commission was awarded “A status” by the International Coordinating Committee of National Human Rights Institutions, under the auspices of the United Nations Office of the High Commissioner for Human Rights. This was in recognition that in creating the Commission, the Scottish Parliament faithfully reflected the Paris Principles relating to the Status of National Institutions.

The Commission notes with appreciation the longstanding and continued interest of the Petitions Committee in the efforts of survivors of historic child abuse in Scotland to seek effective justice, remedies and reparations.

In March 2009 the Commission was invited by the Scottish Government to produce a human rights framework for the design and implementation of the proposed “Acknowledgement and Accountability Forum” for survivors of historic child abuse in Scotland (the Framework). In February 2010 the Commission published a comprehensive human rights framework for both the design and the implementation of steps to secure all elements of justice, remedies and reparation. This included recommendations for immediate next steps as well as for steps which will take longer to realise. I attach the Executive Summary and recommendations from the framework as an annex to this letter.

The Commission undertook this work as one element of delivering its first Strategic Plan. The Plan focuses on the promotion and protection of human dignity through the promotion of a human rights based approach, which emphasises the empowerment of rights-holders to know and claim their rights, and the ability and accountability of duty bearers to fulfil human rights. The Commission’s first focus for delivering this goal is human dignity in care where it is working with regulators, providers, organisations and people in care to advance a human rights based approach in that sector.

In delivering the Framework the Commission noted that Scotland has taken a series of significant steps to addressing historic childhood abuse. The Commission welcomed those steps and paid particular credit to the dignity and determination of those who have been subject to gross human rights abuses in the past and continue to seek justice, remedies and reparation. I would like to echo those comments in respect of the current Petition.

The Commission has followed the initial discussions surrounding the Petition with interest, in particular the frequent references to the Framework, which are particularly welcome. The Commission stands ready to assist the Petitions Committee in any way that it would find helpful

to clarify its recommendations and to discuss a process for ensuring their most effective implementation.

In light of discussions in the Petitions Committee, it may be useful to clarify the process for developing the Framework and how the Commission intends to pursue the implementation of its recommendations.

In undertaking this work the Commission entered into a grant agreement with the Scottish Government to deliver the Framework. This agreement did not include a timetable for delivery, although a working deadline of November 2009 was initially discussed. In August 2009 a delivery date of end of January 2010 was agreed. The grant agreement under which the Framework was developed was for £28,050.

The process for developing the Framework involved commissioning a legal paper, delivered in draft in July 2009, and further developed by the Commission up to and including December 2009. The Commission also commissioned a research paper which was delivered in draft form in December 2009, and finalized in January 2010. Throughout the process the Commission updated the Government on its progress, sharing drafts of the legal analysis in July 2009, the draft research paper in December 2009 and the draft Framework in January 2010. In refining the Framework the Commission took into account the announcement by the Scottish Government in November 2009 of the current pilot, and comments of the Scottish Government on the draft Framework provided in January 2010. The Government's decision to announce a pilot forum was made independently of and prior to the Commission presenting its recommendations.

Following the publication of the Framework the Commission participated in two awareness raising events related to the pilot forum organized by the Scottish Government and met on several occasions with the Chair and Commissioners of the pilot forum.

In making its recommendations the Commission considered that the pilot Forum could "*play a valuable role in the process of scoping steps required to secure effective access to justice, effective remedies and reparation for survivors of historic child abuse.*" However its principal recommendation to the Scottish Government was to "*clarify that the Pilot Forum is a stage in scoping the needs of survivors and commit to taking a comprehensive human rights based approach to securing effective access to justice, effective remedies and reparation for survivors of childhood abuse.*"

Upon completion of the pilot forum and the publication of the report by Tom Shaw and the other Time to be Heard Commissioners, the Commission intends to pursue an interaction involving those affected and key decision makers to identify how the recommendations related to the broader human rights based process referred to above can be implemented.

Let me thank you once again for the attention which the Petitions Committee has paid to the Human Rights Framework developed by the Commission, and extend an offer to you of any assistance which the Commission may be able to provide in your consideration of the present petition.

Yours sincerely

Duncan Wilson  
Head of Strategy and Legal