



Victims and Witnesses (Scotland) Act 2014

2014 asp 1

National Confidential Forum

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After section 4 of the Mental Health Act, insert—

“4ZA National Confidential Forum

- (1) The Commission must establish and maintain a committee to be known as the National Confidential Forum (“NCF”) for the purpose of carrying out the following functions (referred to in this Act as “NCF functions”)—
 - (a) the general functions mentioned in section 4ZB,
 - (b) the functions conferred on NCF in schedule 1A.
- (2) Schedule 1A makes further provision about NCF.

4ZB General functions of NCF

The general functions of NCF are—

- (a) to provide means for persons who were placed in institutional care as children to describe in confidence (such descriptions being referred to in this Act as “testimony”)—
 - (i) experiences of that care,
 - (ii) any abuse experienced during the period spent in that care,
- (b) to acknowledge testimony by enabling it to be given at hearings established by NCF or by written or other means,
- (c) based on testimony received—
 - (i) to identify any patterns and trends in the experiences of persons placed in institutional care as children (including the causes, nature, scale and circumstances of any abuse experienced), and
 - (ii) to make recommendations about policy and practice which NCF considers will improve institutional care (including by

Status: This is the original version (as it was originally enacted).

- protecting children from, and preventing or reducing the incidence of, abuse),
- (d) while preserving the anonymity of participants, establishments providing institutional care and other persons, to prepare reports of the testimony it receives and its recommendations in relation to them,
 - (e) to provide information about advice and assistance available to persons giving, or proposing to give, testimony.

4ZC Carrying out NCF functions

- (1) The Commission must delegate the NCF functions to NCF.
- (2) The person appointed to chair NCF (the “NCF Head”) must account to the Commission for the carrying out of the NCF functions.
- (3) Subsections (1) and (2) do not affect the responsibility of the Commission for the carrying out of the NCF functions.

4ZD Modifications in relation to NCF

- (1) The following modifications of this Part apply in relation to the NCF functions—
 - (a) sections 5, 6, 9, 9A, 10, 16 and 19 do not apply,
 - (b) in section 17(1), references to the Commission (except in the phrase “Commission Visitor”) are to be read as if they were references to NCF,
 - (c) sub-paragraph (2) of paragraph 11 of schedule 1A applies in relation to the Commission’s annual report mentioned in section 18(1) as it applies in relation to a report prepared under that paragraph,
 - (d) section 20 is to be read as if after subsection (1) there were inserted—
 - “(1A) For the purposes of the law of defamation—
 - (a) any statement made in good faith by NCF, its members or NCF staff in carrying out any of the NCF functions is privileged,
 - (b) any statement made by an eligible person in accordance with arrangements made by NCF under paragraph 8(2) of schedule 1A is privileged.
 - (1B) A word or expression used in subsection (1A) has the same meaning as it has in schedule 1A.”.
- (2) Section 1 of the Public Records (Scotland) Act 2011 is to be read as if after subsection (8) there were inserted—
 - “(8A) The Mental Welfare Commission for Scotland must have a separate records management plan in relation to the public records created in carrying out the NCF functions (within the meaning of section 4ZA(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003).”.