

SCHEDULE 2 THE NATIONAL CONFIDENTIAL FORUM

PART 1

CONTINUING MATTERS

Confidentiality and disclosure of information

- 1 (1) This sub-paragraph applies to—
 - (a) the Mental Welfare Commission for Scotland (“the Commission”),
 - (b) a person who is or has been a member of the Commission,
 - (c) a person who is or has been an employee of the Commission,
 - (d) a person who has been a member of the NCF,
 - (e) a person who is given relevant information for the purpose of storing or preserving it.
- (2) A person to whom sub-paragraph (1) applies must not disclose relevant information.
- (3) Sub-paragraph (2) does not prevent disclosure of relevant information by the person to the extent that—
 - (a) the disclosure is to another person to whom sub-paragraph (1) applies and is necessary for the purpose of enabling or assisting the carrying out by the Commission of any of its functions,
 - (b) the disclosure is necessary for the purpose of enabling the Commission to prepare its annual report, or
 - (c) the disclosure is in accordance with sub-paragraph (4).
- (4) A court may order disclosure of relevant information in, or for the purposes of, civil or criminal proceedings (including for the purposes of the investigation of any offence or suspected offence) if it is satisfied that—
 - (a) the disclosure is necessary in the interests of justice, and
 - (b) the extent of the disclosure is necessary in the interests of justice.
- (5) In this paragraph, “relevant information” means any information which—
 - (a) has been provided to a person in connection with the carrying out by the Commission of any of its functions which relate to the functions that, prior to its dissolution, were the NCF’s functions, and
 - (b) is not otherwise in the public domain.

Public records

- 2 Section 1 of the Public Records (Scotland) Act 2011 (records management plans) is to be read as if after subsection (8) there were inserted—

“(8A) The Mental Welfare Commission for Scotland must continue to have a separate records management plan for the public records created in carrying out the National Confidential Forum’s functions prior to its dissolution under section 103 of the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021.”.