The Committee will consider the following current petitions—

**PE535** Petition calling for the Scottish Parliament to urge the Scottish Executive to (a) make an inquiry into past institutional child abuse, in particular for those children who were in the care of the State under the supervision of religious orders and (b) make unreserved apology for said State bodies and to urge the religious orders to apologise unconditionally.

**PE888** Petition by Chris Daly calling on the Scottish Parliament to urge the Scottish Executive, in the interests of those who have suffered institutional child abuse, to (a) reform Court of Session rules to allow ‘fast-track’ court hearings in personal injury cases; (b) review the implementation of the Prescription and Limitation (Scotland) Act 1973; and (c) to implement the recommendations of the Law Commission report on the Limitation of Actions.

**PE913** Petition by Debbie Scott, on behalf of To Play or Not to Play, calling on the Scottish Parliament to urge the Scottish Executive to adopt a Play Strategy that recognises the right of all children in Scotland to a safe, accessible and challenging play environment.

**PE945** Petition by Susan Green calling for the Scottish Parliament to consider and debate the inadequacy of the existing legislation for parental consultation over school closures.

**PE955** Petition by Catriona Lessani, on behalf of the Parents Action Group of St Kevin’s Primary, calling for the Scottish Parliament to urge the Scottish Executive to review the implementation of its guidance on school closures to ensure that parents and pupils are properly consulted.
Public Petition to
The Scottish Parliament

INQUIRY AND APOLOGY
FOR ADULT SURVIVORS OF INSTITUTIONAL ABUSE IN SCOTLAND

Steve Farrell
Clerk to the Public Petitions Committee
The Scottish Parliament
EDINBURGH
EH99 1SP

We the undersigned petitioners ask the Scottish Parliament to urge the Scottish Executive to commence an inquiry into past institutional child abuse. Survivors were subjected to systematic abuse including, sexual assaults, physical and emotional abuse, while they were as children resident in an institution in respect of which State bodies had regulatory or supervisory functions. In particular those in the care of the State under the supervision of religious orders. We also ask the Scottish Parliament to make an unreserved apology for said State bodies. And to urge the religious orders to apologize unconditionally.

Terms of Reference for the Scottish Parliament / Scottish Executive.

*To afford victims of institutional child abuse in Scotland an opportunity to tell of the abuse they suffered to a sympathetic experienced forum.

*To establish a picture of causes, nature and extent of physical sexual and emotional abuse of children in institutions from around 1940 or before until the present, including the antecedents, circumstances, factors and context of such abuse, the perspectives of the victims and motives and perspectives of the persons responsible for committing the abuse.

*To compile a report and make public, on the activities and findings of the inquiry, containing such recommendations as the inquiry considers appropriate including actions which should be taken to address the continuing effects of the abuse examined by the inquiry.

*To appoint specialist advisers supply information or elucidate areas of complexity, to conduct investigations, hold hearings, both private and public and conduct or commission research for the purpose of carrying out these terms of reference.

Principal Petitioners

Christopher G Daly
Public Petitions Committee – a template for public petitions

Should you wish to submit a public petition for consideration by the Public Petitions Committee please complete the template below. Please refer to the Guidance on submission of public petitions for advice on issues of admissibility before completing the template. You may also seek advice from the Clerk to the Committee whose contact details can be found at the end of this form.

Details of principal petitioner:
Please enter the name of person and organisation raising the petition, including a contact address where correspondence should be sent to, email address and phone number if available

Mr Chris Daly

Text of petition:
The petition should clearly state what action the petitioner wishes the Parliament to take in no more than 5 lines of text, e.g.

The petitioner requests that the Scottish Parliament considers and debates the implications of the proposed Agenda for Change legislation for Speech and Language Therapy Services and service users within the NHS

Petition by Chris Daly calling on the Scottish Parliament to urge the Scottish Executive, in the interests of those who have suffered institutional child abuse, to (a) reform Court of Session rules to allow 'fast-track' court hearings in personal injury cases; (b) review the implementation of the Prescription and Limitation (Scotland) Act 1973; and (c) to implement the recommendations of the Law Commission report on the Limitation of Actions.

Additional information:
Any additional information in relation to your petition, including reasons why the action requested is necessary, should not be included here. However, it may be appended to the petition and will be made available to the Public Petitions Committee prior to its consideration of your petition. Please note that you should limit the amount of any additional information which you may wish to provide in support of your petition to no more than 4 sides of A4.
Action taken to resolve issues of concern before submitting the petition:
Before submitting a petition to the Parliament, petitioners are expected to have made an attempt to resolve their issues of concern by, for example, making representations to the Scottish Executive or seeking the assistance of locally elected representatives, such as councillors, MSPs and MPs. Please enter details of those approached below and append copies of relevant correspondence, which will be made available to the Public Petitions Committee prior to its consideration of your petition.

1. LETTER TO THOMAS MACAVOY MP. RESPONSE TELEPHONE CALL FROM MR MACAVOY SAYING, "THE ISSUES RAISED IN THE PETITION WERE A MATTER FOR THE JUSTICE DEPT AND CATHY JAMIESON." MR MACAVOY ALSO STATED THIS WAS A DEVOLVED ISSUE.
2. LETTER TO JANIS HUGHES MSP. NO RESPONSE.
3. LETTER TO ANNABEL GOLDSIE MSP JUSTICE 2 COMMITTEE CONVENER. LETTER FROM HER CALLING JUSTICE 2 COMMITTEE COULD NOT FIND TIME TO DEAL WITH ISSUES RAISED. SEE COPY.
4. LETTER TO CATHY JAMIESON JUSTICE MINISTER NO RESPONSE.

Petitioners appearing before the Committee
The Convener of the Committee may invite petitioners to appear before the Public Petitions Committee to speak in support of their petition. Such an invitation will only be made if the Convener considers this would be useful in facilitating the Committee’s consideration of the petition. It should be noted that due to the large volume of petitions it has to consider, the Committee is not able to invite all petitioners to appear before the Committee to speak in support of their petition.

Please indicate below if you do NOT wish to make a brief statement before the Committee when it comes to consider your petition.

I do NOT wish to make a brief statement before the Committee

Signature of principal petitioner:
When satisfied that your petition meets all the criteria outlined in the Guidance on submission of public petitions, the principal petitioner should sign and date the form in the box below. Other signatures gathered should be appended to this form.

Signature: ........................................
Date: 22/9/05 ..........................................................

Please note that any additional information, copies of relevant correspondence and additional signatures should be appended to this form and submitted to:
The Clerk to the Public Petitions Committee,
The Scottish Parliament,
Edinburgh
EH99 1SP
Tel: 0131 348 5186 Fax: 0131 348 5089
e-mail: petitions@scottish.parliament.uk.
SCOTTISH PARLIAMENT PUBLIC PETITIONS COMMITTEE – CONSIDERATION PE535

Thank you for your letter of 14th June re the above in which you raised the difficulties experienced by some survivors of abuse in gaining access to records relevant to the residential establishments in which they lived and individual case files. You also sought an update on progress of a more general nature made by the Executive since the debate in Parliament on 1st December 2004.

My letter of 8th July 2005 provided an update on progress made. Since then:

- we have improved the search function on the Scottish Executive internet site to ensure that those seeking advice on how to access relevant files held by the Executive can find the relevant web page more easily and are continuing our work with Who Cares? Scotland to identify other useful contacts regarding access to information held by local authorities and other organisations with a view to providing more comprehensive information on our webpage;

- after a period of monitoring of uptake officials decided that the helpline service operated by Who Cares? Scotland to assist people who want information about how to access information held by the Executive be discontinued. This decision was taken in light of the limited uptake of this service in recent months - only one call was received in the last 3 months of operation. The service ended as of 9th August 2005 after 6 months in operation;
I have written to Mr Tom Shaw confirming his appointment as independent expert to investigate and report on the abuse that took place in children’s homes and residential schools in Scotland. A copy of his remit is attached.

my officials continue to meet regularly with INCAS; as indicated in my letter of 8th July we have been working with them to identify other ways in which we might provide support, including how we might fund a research post to assist INCAS members further in their search for information held by us or other organisations. We await the decision of INCAS as to how best to structure the organisation to allow it to employ staff. That will enable us to agree priorities for financial support to allow them to develop their work. In the meantime, our discussions with Who Cares? Scotland have resulted in their offering to assist INCAS by arranging and facilitating a series of meetings to assist them in formulating their business plan etc. Should INCAS take up this offer this will hopefully enable them to make the necessary progress to allow us to provide financial support.

a first meeting of the Scottish Executive Reference group on Adult Survivors of Childhood Sexual Abuse is due to take place on 6th September. This group has emerged from both the work of the Cross Party Group on Survivors of Childhood Sexual Abuse which was set up in 2001 and my commitment during the debate to set up a short life working group to look at support services for survivors of in care abuse. The remit of the group will be discussed at its first meeting but the intention is that it will go beyond consideration of support services for survivors of childhood sexual abuse and will instead look at support services for those who have suffered abuse of any kind. Both the petitioner, Chris Daly, and the vice-Chair of INCAS, Helen Holland, have been invited to join this group.

Your letter also raises the difficulties experienced by some survivors of abuse in gaining access to records relevant to the residential establishments in which they lived and individual case files. In this regard my officials met with representatives of Barnardos, Quarriers, CoSLA, the Church of Scotland, the Catholic Church and the Sisters of Nazareth on Monday 22nd August to update them on action taken by us and to explore with them how their organisations make available information held. All the organisations represented at the meeting agreed to provide details of a single point of contact for each organisation that could be published on the Scottish Executive website to assist those seeking to access their personal files.

I hope you find this update helpful; I will, of course, keep you informed as work progresses.

PETER J PEACOCK
REMIT OF INDEPENDENT EXPERT

1. Against the background of the abuse suffered by children up to the age of 16 in residential schools and children's homes in Scotland over the period from 1950 to 1995 the Independent Expert is instructed to carry out an investigation and, as soon as may be practicable, to present a report for consideration and for publication by Scottish Ministers with the following objectives:

(1) to identify what regulatory requirements and powers were in place from time to time over that period and which provided for the provision, regulation and inspection of such schools and homes and for the welfare and protection from abuse of children resident in them;

(2) to identify, and review the adequacy of any systems, whether at national, local or organisational levels, intended to ensure compliance with those requirements and with any prescribed procedures and standards from time to time including systems of monitoring and inspection;

(3) to review the practical operation and effectiveness of such systems.

2. While the remit is primarily concerned with the period 1950 to 1995 the Independent Expert should not regard himself as precluded from considering material from outwith that period which he considers to be of relevance.

3. So as not to prejudice either any possible criminal proceedings or any litigation at the instance of the survivors of abuse the Independent Expert is not to report on the facts or circumstances of any individual cases of abuse.

4. For the purposes of his investigation the Independent Expert will, in addition to information that is publicly available:

(1) have access to all documentary records of the former Scottish Office in so far as in the possession of Scottish Ministers from the period under consideration and in so far as relating to residential schools and children’s homes which will be subject to redaction to ensure that no individual can be identified;
(2) be expected to seek the cooperation of local authorities and other organisations with responsibility for the management and administration of residential schools and children's homes in making available to him such documentary records and explanation of such records as he considers to be necessary for his purposes.

5. Except in so far as provided above the Independent Expert is not expected to consider material or submissions from individuals or from local authorities or such organisations except to the extent that he may consider it necessary for the purposes of his investigation to obtain information from organisations representing the interests of the survivors of abuse.
Dear Michael

I refer to the Committee's consideration of petition PE535 from Mr Chris Daly, which called for an inquiry into past child abuse in care institutions. I am writing to update you on recent developments on one of the issues raised during consideration of the petition, namely how the law relating to prescription ("time bar") prevents claims being raised for injuries arising from such abuse that were sustained before September 1964.

I very much understand the concerns that have been expressed about this issue. During the debate in the Parliament on the petition on 1 December 2004, and in a subsequent letter to the Committee, Peter Peacock referred to the review of the law on limitation in respect of personal injury claims currently being undertaken by the Scottish Law Commission and undertook to inquire whether the timescale for that review could be brought forward.

Since then I and my officials have had extensive discussions with the SLC. The Commission's current reference concerns the current provisions of the Prescription and Limitation (Scotland) Act 1973 relating to limitation in personal injury actions. The position of claims for personal injury which prescribed as a result of prescription prior to September 1984 is not a matter of the current law but a review of the consequences of the operation of prescription which was abolished as far as personal injury actions are concerned in 1984. We have therefore decided that this topic should be the subject of a separate reference to the SLC, the terms of which I have now agreed with the Commission. The second reference covers claims for pre-1964 personal injuries in general and not just child abuse cases. However, I have asked the SLC to bear the child abuse issues particularly in mind in its review.

The SLC will conduct its review in parallel with its existing review of limitation and its intention is that the discussion paper and final report will now cover both references. The SLC had been aiming to publish a discussion paper for public consultation by the end of this year and to report to Ministers with recommendations by the end of 2006. However, in view of the additional work required in relation to the second reference there may need to be some adjustment to that timescale, although the SLC has said that it will do all it can to minimise any delay. I am continuing to keep in touch with the SLC on this point.
I note that Mr Daly recently lodged another petition to the Parliament (PE888) that refers to the issue of time bar (as well as other issues), and I understand that the Committee will be writing to the Scottish Executive and the Scottish Law Commission to seek comments on that petition. We are already considering the issues raised in the petition, and should therefore be able to reply reasonably quickly to the Committee’s letter once that has been received.

I hope this is helpful. I will of course continue to keep you advised of developments.

Best wishes

CATHY JAMIESON
Dear Dr Johnston

Examination of the Scottish Executive Education Department’s Procedures for the Identification and Provision of Access to Records related to Children’s Homes and Residential Schools

As promised in my letter to you on 29 April, I am pleased to enclose a copy of the above report for the members of the Public Petitions Committee. The report will be published tomorrow and available on my website. I will also arrange to send you an electronic copy as I understand this is the format preferred by the Committee.

Please do not hesitate to contact Sarah Hutchison, my Head of Policy and Information (Tel 01334 464610 shutchison@itpublicknowledge.info) in relation to any matters arising from the report.

Yours sincerely

Kevin Dunion
Scottish Information Commissioner

Enc.
11th October 2006

Eileen Martin
Public Petitions Committee Assistant
Parliamentary Headquarters
EDINBURGH
EH99 1SP

Eileen Martin & Committee Members,

Thank you for your letter asking for my comments on responses received from The Scottish Law Commission and the Scottish Executive in relation to PE888 and PE535 and the letter from the Justice Minister.

I shall discuss the Court of Session Rules to allow "fast-track" court hearings in personal injury cases first.

Hugh Henry states, "I confirm that all cases raised in the Court of Session in connection with any kind of personal injury are now raised under the so-called fast track procedure in terms of the new chapter 43 of the Rules of the Court of Session. He continues, "this includes institutional child abuse cases".

Understandably, having researched this before submission of PE888 is Chapter 43 of the Rules of the Court of Session refers specifically to Asbestos and Mesotheioma class actions. The Rules were set up because of the progressiveness and poor prognosis in these conditions. Many victims were dying before their cases were heard. Perhaps the Petitions Committee could confirm the facts regarding the new Chapter 43 Rules.

The Law Commission response to petition PE888 refers to publishing a Discussion Paper in the early part of 2006 and a Report to Scottish Ministers early in 2007. The Discussion Paper was published in February 2006. In part 1 section 1.14 of the paper PE535 was discussed. It states, "In August 2002 a petition was presented to the Scottish Parliament by Mr Christopher Daly. In that petition the Scottish Executive was requested to institute a public enquiry. In view of among other things, the sense of injustice expressed on behalf of the petitioner, Scottish Ministers decided to make the second reference".

Overall however the report is not in favour of a reform of the pre 64 time limitation. This is however a discussion paper and the report to Ministers is yet to come.

On another matter. My attempts at getting an update from the Independent Expert Tom Shaw have been blocked by his researcher Nancy Bell. Who states they would respond to the Petitions Committee but not the petitioner! I thank the Committee for its continuing work with the petitions.

Also I hope to attend the meeting at All Saints Secondary on Monday 30th October.

Please note my new contact details above.

10/10/2006
Yours sincerely

CHRIS DALY

NB. Sent by email and hard copy.

To help you stay safe and secure online, we've developed the all new Yahoo! Security Centre.
Hough R (Richard)

From: Johnston JD (James)
Sent: 10 August 2006 08:52
To: McGill D (David)
Cc: Hough R (Richard)
Subject: FW: Petitions Committee

David,

this relates to a couple of petitions which are still open in relation to institutional child abuse both by Chris Daly.

Jim

---Original Message-----

From: Fbga1@aol.com [mailto:Fbga1@aol.com]
Sent: Wednesday, August 09, 2006 8:50 PM
To: James.Johnston@scottish.parliament.uk
Subject: Petitions Committee

Dear Mr Johnston

I am attaching a copy of a letter with regards the remit of Tom Shaw appointed by Scottish Executive Officials sent to the Ministers Mr Peacock’s dept and the Scottish Officials purporting to deal with the Historical Abuse issues.

We intend when the Scottish Parliament returns from the summer recess to further highlight the ongoing issues and matters that affect Historical Abuse Survivors in Scotland in particular those abused in Quarriers Homes in the past.

We intend seeking a Judicial review of the Ministers decision not to hold any type of Inquiry into Quarriers Homes given the fact that 7 ex-employees are now convicted of abusing children placed in their care and this will include other additional fact and evidence to support our case.

I would kindly ask that you circulate this letter to the Petitions committee who were dealing with the issues.

Yours Sincerely

David Whelan
FBGA

Your Sincerely
6.7 the future level of voluntary funding, bequests or donations to Quarriers would be adversely affected.
6.8 the continued negligence and deficiencies of the medical, local authority, religious and law enforcement organisations would be exposed, which would be a serious embarrassment to the establishment and would be difficult to reconcile.
6.9 the management of Quarriers Homes was seen to flagrantly breach the law of the land while entrusted with the care of the most vulnerable and defenceless children in Scotland.
6.10 establishing the truth would have far reaching legal implications across the whole of Scottish society.
6.11 the cost of a full independent judicial inquiry would be too great a burden for the Scottish taxpayer.
6.12 the truth would open the floodgates for wholesale compensation claims by abuse victims. Which the State is clearly trying to avoid given there original implicit failure to ensure that the organisations were properly administered and children cared properly.
6.13 some may see it as an opportunity to raise spurious allegations of abuse motivated by false allegation claims. If the current system or remit is not sufficiently robust to investigate the fully the issues. Which would then be used as a tool to demean genuine victims by the officials and others (as has happened in Ireland).
6.14 Quarriers’ management would finally be compelled to give an unreserved apology to those victims who suffered abuse while entrusted to their care.
6.15 Quarriers current management have also lent support to paedophiles and their supporters by there actions and failure to intervene including issuing media statements that they would allow convicted paedophiles to return to where vulnerable adults and children are currently cared for in Quarriers Village by the organisation.
6.16 the State are viewed as being complicit in the child abuse, since it placed many of the children in care, yet failed to institute appropriate checks to continually monitor the systems for child protection, care and welfare.

7. While every one of these points is worthy of serious consideration, not one of them should be allowed to take priority over the search for truth and justice. Only a full independent inquiry unconstrained by preconditions or influenced by the Scottish Executive, but with full judicial powers, can effectively address these priorities. After all, the true test of the morality of a mature, civilised, democratic society is reflected in the way it treats the most vulnerable members of that society and in the way it accepts that the cost of justice is a price worth paying. Nothing should be permitted to impede the pursuit of these worthwhile endeavours.

8. The setting-up of a Judicial Inquiry would also support the previous request made by Quarriers’ Management for a Commission of Inquiry into child abuse in Quarriers Homes.

9. Other matters of real concern stimulated by your responses are:-
8.1 the statement that your Review Team have no control over the decision making processes with regard to the final document.
8.2 the statement that you cannot make any recommendations based on your findings.
8.3 the now difficult and awkward dilemma of whether or not people, who may regard your Review as being a pointless exercise, should continue to participate in, or disengage from, your Review process.
8.4 the suspicion that the Review process is really about Mr Peter Peacock’s Department gaining access to any information, fact and evidence that respondents may have at their disposal.
8.5 the suspicion that Mr Peter Peacock’s Department will use that information, fact and evidence in formulating a defence against our demand for a Full Public Inquiry into Quarriers Homes.
8.6 the lack of clarity in your responses as to whether you will include in your investigation, all relevant organisations involved in the care of children in Quarriers.
8.7 the possibility that your report will fail to be fully transparent.
8.8 the possibility that your report will not be made public.

10. We are also very concerned that if your Review is not sufficiently comprehensive, rigorous and bold, in action and investigation, a golden opportunity will have been missed to restore confidence in the Scottish care system and another generation of Scottish children in care will face the same threat of abuse. The basis for this possibility is derived from some of the evidence in the court cases, also the fact that paedophiles and their supporters have embeded themselves in the care system in Scotland and in particular, Quarriers Homes due to past nepotism and corruption of the care system by these individuals. Including the Quarriers of today.

Cc: Scottish Executive officials.
Mr Peter Peacock MSP, Minister
Dear Tom

Historical Abuse Systemic Review Team
Meeting – 23 Walker St, Edinburgh
Date - 28th April 2006

Thank you for the responses to the 23 points for clarification that we sent to you in June 2006 as a result of our Meeting on the above date.

Your responses have given us cause for concern and have raised the following very significant issues:

1. At the above Meeting you indicated to us the high degree of independence that your Review Team would have during the Historical Abuse Systemic Review process and how you would maintain and defend that independence throughout the full extent of the Review. It is difficult to understand from your responses how you can be viewed as independent, given that your remit and scope of inquiry is controlled and prescribed in advance by the Scottish Executive, in particular, by Mr Peter Peacock, Minister of Education and Young People.

2. It was irrefutably established during the recent court cases, which were successfully prosecuted by the Scottish Judiciary (who are clearly independent of the Scottish Executive), that there was a marked failure, down through the generations, of the systems which were supposed to be in place to protect children in care in Quarriers Homes. These same court cases also raised the question of whether or not such systems were actually in place. For your Review to be truly effective, it is absolutely imperative that your Review Team be unfettered in your investigation of all of these systems and that your independence is not constrained by any pre-conditions set by any external agency.

3. The court cases also established that the past professional carers and medical professionals employed by Quarriers, the appointed personnel on the Quarriers management committee, the local Police Service and the Local Authorities who were charged with the responsibility for ensuring the protection and safety of children placed in Quarriers Homes, failed over a prolonged period in their duty of care to many of these children. It is obvious from our perspective, that these organisations must be included in your investigation process.

4. The lack of clarity in your responses-with regard to your independence, leads to the conclusion that only a truly independent inquiry with real powers (such as the Irish Government conducted - reference Francis D. Murphy, Helen Buckley, and Larain Joyce, *The Ferns Report*, presented by the Ferns Inquiry to the Minister for Health and Children, Dublin: Government Publications, October 2005), will actually get to the truth of why such abuse happened to so many Scottish children placed in care for their own protection by the State.

5. In view of the limited remit and lack of powers which have been given to your Review Team, the motives of the Scottish Executive have to be questioned. Does the imposition of such restrictions ensure that the issues are concealed from public gaze and the various organisations protected from being held to account for allowing crimes of abuse to be inflicted on the children of Scotland in care Homes?

We are also aware that The Scottish Executive and their officials are also currently engaged in the Scottish Court of Sessions continuing to use blocking and challenging tactics on the basis of Timebar (De la Salle cases). These individual cases of abuse have already been proven in the Scottish Courts.

6. There are many obvious reasons why the Scottish Executive would prefer these issues to remain hidden from public view, e.g.

6.1 The misguided notion that public confidence would be eroded in the present day care system.
6.2 the public would learn how past failures of the established system failed to adequately protect, monitor and supervise the welfare of children in care in Quarriers Homes.
6.3 the families of some abused children would learn for the first time of the scale and the severity of the abuse.
6.4 the management of Quarriers Homes was seen to encourage widespread child abuse to continue throughout the generation by failing to take appropriate action whenever a child reported abuse.
6.5 the management of Quarriers Homes was seen to permit the crime of child abuse to continue by promoting a culture which attracted those people inclined to behave in that way.
6.6 the reputation and image of Quarriers, the brand, would be damaged.