

# RESPONDENT INFORMATION FORM: CONSULTATION PAPER ON REMOVAL OF THE 3-YEAR LIMITATION PERIOD FROM CIVIL ACTIONS FOR DAMAGES FOR PERSONAL INJURY FOR IN CARE SURVIVORS OF HISTORICAL CHILD ABUSE

Please Note That This Form **Must** Be Returned With Your Response To Ensure That We Handle Your Response Appropriately

THIS RESPONSE IS SUBMITTED BY SHERIFF DEREK O'CARROLL, HONORARY SECRETARY OF THE SHERIFFS' ASSOCIATION, ON BEHALF OF THAT ASSOCIATION

## 1. Name/Organisation

Organisation Name

Sheriffs' Association

Title Sheriff  Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

Surname

O'Carroll

Forename

Derek

## 2. Postal Address

Airdrie Sheriff Court

Sheriff Court House

Airdrie

Postcode ML6 6EE

Phone

Email

## 3. Permissions

I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate  Yes  No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate  Yes  No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

## CONSULTATION QUESTIONS

B.01 This Annex summarises all the questions that appear in this consultation paper. Respondents should not feel obliged to answer all of them. However, the Scottish Government would appreciate all responses, whether from individuals or from organisations, with views on any or all of these matters.

B.02 Please explain and, where possible, provide evidence for each answer that you give.

### **GENERAL RESPONSE**

***The Sheriffs' Association does not comment on matters of policy, as a general rule. It seems to the Association that the majority of this consultation paper concerns matters of policy and as such, the Association regrets that it is not in a position to respond to such matters. However, question 7 does appear to bear on matters on which we believe we can express a view. Accordingly, our response is limited to that question.***

## **Chapter 5: Proposal to Remove the Application of the Limitation Period to Survivors of Historical Child Abuse Who Wish to Raise Personal Injury Actions**

Q.1 Do you agree with our proposal to remove cases relating to historical child abuse from the limitation regime?

Yes

No

Don't know

**Please set out your reasons:**

Q.2 What are your views on how the proposed change in the law may apply to cases which have been raised unsuccessfully on the basis of the current law on limitation?

**Please set out your reasons for your answer:**

## **Chapter 6: Application of the Proposed Change in law**

Q.3 Do you agree that child should be defined as someone who has not yet attained the age of 18?

Yes

No

**If no, please explain your reasons:**

Q.4 Do you agree that any definition of ‘child abuse’ should cover physical, sexual, emotional, psychological, unacceptable practices and neglect?

Yes

No

**If not, why not:**

Q.5 Do you agree that types of care (outlined in Para’s 6.9 to 6.11) should be covered?

Yes

No

**If not, why not:**

Q.6 Do you think that the proposed exemption from the limitation regime should be extended to cover all children, not just those abused “in care”?

Yes

No

**If not, why not:**

Q.7 What do you think the impact of implementing these proposals would be in relation to the issues below, where possible please illustrate your answer with figures:-

It appears to us that the creation of the extended right of action will increase the amount of court business to be dealt with. More cases will inevitably come to court. It is our experience that historical abuse cases can be lengthy and evidentially difficult. It might be anticipated that historical abuse damages claims will also take up a significant amount of court time should they reach court. Whilst, on the information available we cannot quantify the extra demand on diminishing court resources we would point out that adequate and properly researched extra resources will need to be provided.

**Q.7(a) Is it likely that more or fewer actions will be raised?**

**Q.7(b) Is it likely that more or fewer cases come to court?**

**Q.7(c) Is it likely that more or fewer cases will be settled out of court?**

**Q.7(d) Is it likely that cases will require more or less preparation time?**

**Q.7(e) Is it likely that cases will require more or less court time?**

**Q.7(f) Can you quantify the benefits for pursuers?**

**Q.7(g) Can you quantify the benefits for defenders?**

**Q.7(h) Can you quantify the drawbacks for pursuers?**

**Q.7(i) Can you quantify the drawbacks for defenders?**