

## **SSPA COMMENT ON DRAFT TERMS OF REFERENCE**

### **Main issue**

With reference to paragraphs 6, 12 and 13:

If the scope of the Inquiry includes the circumstances of a decision to place someone in State care, as stated in para 6, consideration will need to be given to how the individuals and organisations involved in such decisions will be treated.

In para 12, the list of principles do not include reference to fair and reasonable processes for the individuals and organisations associated with placing children and young people into care, or providing care. There is no contradiction between this and being victim/survivor focused: SSPA supports this approach. Nor is this a reflection on the members of the Inquiry. There is a need for the Inquiry to be seen to be fair and reasonable to all parties involved, in order to maintain public confidence in the process and in the outcomes. We recommend this be clearly stated in the Terms of Reference.

Para 13 refers to the need to ensure institutions and other parties are given sufficient opportunity to respond to requests for information etc. This is a minimum standard and does not address the need for visible procedural fairness to individuals and organisations. The question of representation of any people or organisations subject to the Inquiry will need to be addressed, as well as the degree of openness, given the potential for reputational damage.

### Recommendations:

We would like further information on how fair process will be applied, including understanding practice and policies that reflect the standards of the time.

Consider additional wording under Methods of Work:

Amend the 5th bullet point at para 13 to include a statement regarding the need to ensure fair treatment of institutions, other parties and individuals who have been employed by such organisations to make decision on placing children and young people in care or priding care.

It may also be appropriate to reinforce this point with an additional principle regarding fair process for all parties involved.

## Other comments

Paragraph	Comment	Recommendation
1	We are aware of the valuable work done by the Confidential Listening and Assistance Service and trust there is a way that the aggregated information they have obtained will be able to be used by the Royal Commission.	
4	<p>We support the overall purpose statement and agree this is a matter of public importance. We welcome the Royal Commission Inquiry. We support the focus of the Inquiry on abuse occurring in State care.</p> <p>Noting the discussion occurring about whether the Inquiry should be widened to include abuse occurring in specific institutions, and in particular, churches, we make the following comments.</p> <ul style="list-style-type: none"> <li>• At a later stage it may be appropriate to extent the Inquiry, or establish a new Inquiry, into abuse occurring in specific institutions or groups, such as churches, or state schools.</li> <li>• We note that abuse occurring in such institutions will be looked at to the extent that it is the context for abuse to specific individuals.</li> <li>• We assume the Inquiry, if it finds a pattern of abuse occurring in specific locations or institutions, will be able to direct its attention there.</li> <li>• We also note that it is the primary responsibility of such institutions to initiate inquiries into their own operations, if there are allegations of abuse.</li> </ul>	
5.1	The Inquiry will need to consider practice in the context of the standards of the time.	
5.2.2	Reference is made to mental health issues. This could be reworded to specifically include addiction. This would help this Inquiry to better align with the Inquiry into Mental Health & Addictions.	Include the term “and addictions” after ‘experienced mental health...”
5.2.2	Reference is made to gender. We support this as one of the areas of consideration. We note, from members that deal with males who have been sexually abused, that there are specific and often different issues for these males, particularly in relation to disclosure of abuse and treatment/support. The differential impact for males and females who have been subject to abuse in State care should be recognised.	
5.6	It seems appropriate to have the Royal Commission recommend an approach to monetary redress, but not to get into any issues of compensation.	

Paragraph	Comment	Recommendation
6	See comments above.	
8	<p>We have some concerns about the timeframe selected.</p> <p>Notwithstanding the comment in para 8 about the Royal Commission having the power to include cases to prior to 1950, that start date is likely to preclude some individuals coming forward. There seems no clear rationale to set a beginning date. The age of potential complainants is itself a limiting factor.</p> <p>Similarly, the close off at the end of 1999 will preclude more recent cases being heard.</p> <p>The rationale for the start and end dates need clearer explanation, if the dates stated in the ToR remain.</p>	<p>Consider an open start date for the Inquiry.</p> <p>If the dates remain as stated, ensure communications about the Inquiry include the reasons for the timeframe.</p>
13	The third bullet point makes reference to legal proceedings. It is not clear whether the Inquiry itself will have any function to report any matters to the Police to investigate.	Clarify what process will be used if alleged offenders are named.