

0010010

IICSA Issues Paper Number 1

Civil Justice System

Response from Nottingham City Council

1. Nottingham City Council (NCC) makes the following submission in respect of the IICSA Issues Paper Number 1 relating to the civil justice system as it applies to child sexual abuse claims.
2. As many of the questions in the Issues paper are not specifically relevant to NCC, we have provided a generic response addressing a number of key points.
3. As the Issues paper identifies, the current civil claims process is an adversarial process whereby the claimant has to prove his/her case according to the balance of probabilities, with the primary purpose being to compensate financially, where liability is established. However, victims and survivors of child sexual abuse are often looking for a wider opportunity for their story to be heard and the truth of their experience acknowledged. Financial compensation may be secondary. There is therefore often a disconnect between what claimants may want and what the civil justice system is currently able to provide.
4. Under the current system, the costs involved for all parties in handling child sexual abuse claims are disproportionate to the amount paid by way of settlement or compensation to victims and survivors. All parties need a process which costs less to both individuals and the public purse. Notwithstanding the need to get to the truth, it makes sense for a process which is both cheaper and quicker in getting to that point.
5. Any reparation process for dealing with victims and survivors of child sexual abuse should have at its heart a victim centred approach, which has the potential to provide outcomes,

other than just financial outcomes, which help those individuals move on with their lives and improve their future life chances.

6. We believe that a reduction in cost, an increase in speed and a more victim centred approach is best achieved through claims being dealt with through a less adversarial approach, such as some form of mediation scheme or other alternative dispute resolution scheme.

7. Additionally, a civil claim will often proceed in conjunction with a linked criminal investigation. The civil process will usually wait until the criminal case is concluded. Typically, an application will be made by the Police to stay civil proceedings until after the criminal case is concluded. Because of the higher burden of proof in establishing criminal liability a finding in a criminal context is often determinative of an issue in the civil context and so it generally makes sense to await a criminal outcome. That however can lead to very lengthy delays, of sometimes several years, with civil claims on hold in the meantime.

Civil claims could of course move forward in the interim. However there is a general reluctance for this to be the case for fear of prejudicing potential convictions or even obstructing justice in this context. A stay of civil proceedings to allow for the conclusion of criminal proceedings may often be appropriate but too long a delay can cause significant problems for both parties to the litigation. Any revised system clearly needs to address this issue.