



FINANCIAL REDRESS FOR SURVIVORS OF HISTORICAL CHILD ABUSE IN CARE

Introduction of the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill

Information Note 6

August 2020

On 13 August 2020, the Scottish Government introduced the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill (“the Bill”) to the Scottish Parliament.

The Bill seeks to establish a financial redress scheme for survivors of historical child abuse in relevant care settings in Scotland, and, in some circumstances, where the survivor has died, their next of kin. The purpose of the redress scheme is to acknowledge and provide tangible recognition of the harm suffered as a result of that abuse. The redress scheme will also offer survivors access to some non-financial elements of redress such as acknowledgement, apology and therapeutic support.

The Bill builds on previous work with survivors of historical child abuse in care and follows the pre-legislative consultation launched last year. The Bill will now be considered by the Parliament, a process which is expected to finish before the end of this Parliamentary term in March 2021. Work is underway to ensure that, if the Parliament agree the Bill can pass, the scheme will open for applications as soon as possible after that. Until then, the Advance Payment Scheme will remain open for survivors who are terminally ill or age 68 and over.

The Bill and accompanying documents are published on the website of the Scottish Parliament here: <https://beta.parliament.scot/bills/redress-for-survivors-historical-child-abuse-in-care-scotland-bill>

Key features of the redress scheme:

- **Independent decision-making** - a new organisation, Redress Scotland, will be created to independently assess and make decisions on applications for redress.

- **Administration and processing** - a new team in the Scottish Government will carry out the administration of the redress scheme, for example, processing applications and redress payments. It will not be involved in decision-making.
- **Eligibility** - the redress scheme is for survivors of historical child abuse, meaning abuse which took place before 1 December 2004, in relevant care settings in Scotland.
- **Time period** - the redress scheme will be open to accept applications for a period of five years, although this period may be extended.
- **Payment structure** – the scheme will offer survivors the choice of whether to apply for a fixed rate redress payment or an individually assessed redress payment.
- **Payment levels** - the fixed rate redress payment will be £10,000. Individually assessed redress payments will be set at three levels: level 1 will be £20,000, level 2 will be £40,000 and level 3 will be £80,000.
- **Assessment** - the level of each individually assessed redress payment will be determined following consideration of the nature, severity, frequency and duration of abuse along with other relevant matters. An assessment framework will be published as guidance to provide transparency and consistency in decision-making.
- **Evidence** – the design of the scheme including supporting guidance and the Redress Scotland appointments process will be robust and credible to ensure that survivors, care providers and others can have confidence in its processes and outcomes.
- **Waiver** - redress payments will be conditional upon the applicant signing a waiver, giving up their right to continue or raise civil actions in respect of the abuse, against the Scottish Government and those organisations that have made fair and meaningful financial contributions to the scheme.
- **Financial Contributions** - fair and meaningful financial contributions to the redress scheme will be sought from those organisations which were involved in the care of children at the time of the abuse, whether providing care directly or otherwise involved in the decision-making processes and arrangements by which the child came to be in care.
- **Legal costs** - subject to appropriate limits, the legal costs for applicants will be funded as part of the redress scheme.
- **Next-of-kin** – some next-of-kin of deceased survivors will be eligible to apply for the fixed rate redress payment where the survivor died on or after 17 November 2016.
- **Non-financial redress** – the redress scheme will offer access to acknowledgement, apology and therapeutic support in addition to redress payments.

What is “financial redress”?

Financial redress has been described as “monetary payment to provide tangible recognition of the harm done”. Although we know that no amount of money can make up for harm done, survivors have told us that redress would provide acknowledgement and recognition.

Who will be eligible? What is a “relevant care setting”?

The redress scheme is for survivors who were abused in care in a relevant care setting before 1 December 2004 and were under 18 years. The redress scheme covers two categories of care setting in Scotland. The first concerns children who were “in care” because their families were unable to look after them on a day to day basis and, which led to the children being placed in an institutional care setting (for example, residence in a children’s home provided by a public authority or voluntary organisation) or other public care setting (for example, residence with foster carers).

The second category concerns children who were subject to some form of intervention by a body exercising public functions (for example, where a court order placed a child in an approved school, or where arrangements were made by a local authority to send children to board in schools not managed by that authority and the authority met the costs of that).

Why is there a cut-off date of 1 December 2004?

This is the date that then First Minister Jack McConnell made a public apology in the Parliament and when Scotland began to face up to the harm done to children in care in the past.

What is meant by “abuse”?

In the context of the redress scheme, “abuse” means sexual, physical and emotional abuse or abuse which takes the form of neglect.

Can I still apply if I have previously received compensation for the abuse I suffered in care?

Yes, survivors who have received a payment, or a number of payments, from another source (for example, court awarded damages, settlements of claims, payments from the Criminal Injuries Compensation Authority (CICA) and the Advance Payment scheme) in respect of the abuse that is eligible for redress, can still apply to the redress scheme. However, the amount they have already received will be deducted from any redress payment offered.

When can I apply?

The redress scheme requires legislation to be passed in the Scottish Parliament. Following the introduction of the Bill in the Parliament, the intention is to complete the legislative process by the end of this Parliamentary term in March 2021, subject to Parliamentary approval. The Scottish Government is working to establish the necessary

infrastructure to allow the scheme to open as soon as possible after that.

How much money might I receive?

Survivors will be able to choose at the point of application whether to apply for a fixed rate redress payment or an individually assessed redress payment.

- The fixed rate redress payment is £10,000.

There are 3 levels of individually assessed redress payments, each level consists of a set payment:

- level 1 - £20,000;
- level 2 - £40,000;
- level 3 - £80,000.

If an application for an individually assessed redress payment does not meet the threshold required for a level 1, 2 or 3 payment, applicants will, provided they meet the general eligibility criteria of the scheme, be entitled to a fixed rate redress payment of £10,000.

In order to determine the appropriate level of individually assessed redress payment, an assessment framework will be published as guidance to provide transparency and consistency in decision-making. These decisions will be made by Redress Scotland, a new body which is not part of Scottish Government.

Can I apply for a fixed rate payment and an individually assessed payment?

Survivors who apply for and receive a fixed rate redress payment will, for the duration of the scheme, still be able to apply for an individually assessed redress payment (from which the fixed rate redress payment will be deducted).

Will I need to describe my abuse or provide evidence?

Applicants for both fixed rate redress payments and individually assessed redress payments will be asked to provide documentary information to satisfy the decision making panel that they lived in an eligible care setting prior to their 18th birthday. For fixed rate redress payments, applicants will be asked to provide a statement about the abuse they suffered. For individually assessed redress payments, applicants will be asked to provide a more detailed account of the abuse they suffered and will be required to provide supplementary information in support of their application.

Can I start to gather evidence now so that I am ready for the scheme opening?

We cannot give specific advice about what will be accepted as supporting evidence for applications. We do not want survivors to go through a difficult process preparing for the redress scheme without detailed advice about what will and will not be accepted. The detail of what you need will only be clear when the scheme is open and guidance is available. However, if you already have documentation that you think might support an application you

should keep that safe. Some survivors have already obtained records and information for different purposes.

Will it affect my benefits?

It is our intention to secure a disregard for all redress payments so that benefits, tax and social care entitlements are not affected for anyone who receives a redress payment. We are actively engaging with the relevant UK Government departments on this matter.

Can I still apply if I have a criminal conviction?

Yes. Survivors of abuse or next-of-kin applicants with criminal convictions are not excluded from applying for financial redress. However, Redress Scotland will consider whether, giving a redress payment to people who have been convicted of serious criminal offences, particularly involving serious levels of abusive conduct, would be in the public interest. Serious offences are murder, rape and a sexual or other violent offence, which has resulted in a sentence of imprisonment of five years or more.

Waiver

If an applicant wants to accept a payment from the redress scheme, they will have to agree not to raise or continue any legal action in respect of abuse that is eligible under the redress scheme, against the Scottish Government and those organisations who have made fair and meaningful financial contributions to the scheme. They will be asked to sign a waiver

to signal this agreement. Applicants will be strongly encouraged to seek independent legal advice before signing the waiver. Subject to appropriate limits, the legal costs for applicants will be paid for as part of the redress scheme.

Will next-of-kin of deceased survivors be able to apply?

Some next-of-kin of survivors who died on or after 17 November 2016 will be eligible to apply for a next-of-kin payment, which is the same amount as the fixed rate redress payment. For the redress scheme, next-of-kin means spouses, civil partners or co-habitants of the deceased person. Where the deceased person had no spouse, civil partner or co-habitant, children of the deceased will be eligible to apply. Where there are multiple children of the deceased, the fixed rate redress payment will be divided equally between them.

What support will I get to help me apply?

Emotional, psychological and practical support will be available to those making an application for redress.

Who will pay for the redress scheme? Will religious organisations and others be making a contribution to its cost?

The redress scheme will be funded by the Scottish Government. However, fair and meaningful financial contributions to the redress scheme will be sought from organisations involved in the care of

children during the period covered by the scheme. We understand the importance of these organisations being part of the collective effort to face up to the harms of the past.

What if the organisation involved in my care does not or cannot contribute to the scheme?

Organisations which were involved in the care of children at the time of the abuse are being asked to contribute to the scheme. This is what survivors have told us they want, and also allows organisations to help deal with the wrongs of the past. Your application and payment will be based on you meeting the eligibility criteria and providing the supporting evidence. All applications will be treated the same but if the organisation that provided your care is contributing, they will be included in the waiver that you will be asked to sign before accepting your payment. You will be advised to get independent legal advice before you sign this.

What will happen now that the Bill has been introduced to the Parliament?

After the Bill is introduced, there are three stages of scrutiny before it can be submitted for Royal Assent and become law. We have included a summary of how those stages generally proceed below. For more information please see:

<https://www.parliament.scot/visitandlearn/Education/18641.aspx>.

What happens at Stage 1?

The Bill will be referred to a lead committee in the Parliament. The first step for a lead committee is usually to issue a 'call for evidence' which invites written evidence on the general principles of the Bill. The lead committee will then usually hold a series of meetings to hear oral evidence on the provisions of the Bill.

The committee will then prepare and publish a report on the general principles of the Bill, and the Scottish Government will publish a response to the report. The whole of the Scottish Parliament will then debate and vote on whether or not the general principles of the Bill are agreed. This vote determines whether the Bill progresses to Stage 2.

What happens at Stage 2?

The lead committee will consider and vote on proposed amendments or changes to the Bill. Any MSP, even if they are not members of the lead committee, can lodge amendments, however only members of the lead committee can vote on them.

What happens at Stage 3?

There is a further opportunity for proposed amendments to be considered and voted on, although this now takes place before the whole Parliament rather than within the lead committee. Again, any MSP can seek to have their proposed amendment considered but this time, they too will get to vote on amendments. Once amendments have been dealt with, there will be a

debate on the Bill followed by a vote of the whole of the Scottish Parliament. If Parliament votes to pass the Bill, it proceeds to Royal Assent and becomes law.

What happens at Royal Assent?

The Presiding Officer of the Scottish Parliament will submit the Bill, as passed at Stage 3, for Royal Assent which, once granted, has the effect of turning the Bill into an Act of the Scottish Parliament.

How can I take part in the legislative process?

There are different ways to get involved in the legislative process.

- You may already have given your views to the consultation, which the Committee will consider during Stage 1.
- You can provide your views to the lead committee in response to their call for evidence.
- You can contact your MSP who has the power to lodge an amendment during the parliamentary consideration of the Bill.
- You can attend committee meetings or engagement events held throughout the parliamentary passage of the Bill.

Where can I find the call for evidence?

The call for evidence will be published on the Scottish Parliament's website. We will provide an update and include links when available.

How do I find out who my MSP is?

You can find out who your MSP is by searching your postcode on the Scottish Parliament website:
<https://beta.parliament.scot/msps/current-and-previous-msps>

How will I know which committee is looking at the Bill?

You can find out what committee is looking at the Bill by looking on the Scottish Parliament website:
<https://www.parliament.scot/parliamentarybusiness/committees.aspx>. At the time of this update, the lead committee has not yet been confirmed.

What about older survivors or those who are terminally ill?

Survivors of historical child abuse in care in Scotland who have a terminal illness, or are age 68 or over, can apply now to the Advance Payment Scheme. This scheme opened in April 2019 and it is intended that it will remain open until the statutory redress scheme opens. Further details about advance payments, eligibility, and how to apply can be found at:

<https://www.gov.scot/publications/financial-redress-for-survivors-of-child-abuse-in-care-advance-payment-scheme/>.

More information

The following links provide more information about financial redress and support for survivors:

- <https://www.gov.scot/publications/financial-redress-for-survivors-of-child-abuse-in-care-information-note/>
- <https://www.gov.scot/policies/child-protection/supporting-child-abuse-survivors/>

For enquiries about the redress scheme

- You can contact us by phone on: 0808 169 9740. We are sorry, but in the current situation we will not always be able to open our phone lines at the usual times. However, we are able to receive voicemail messages so please leave your name and number and we will phone you back as soon as we can.
- You can also email about the redress scheme to: redress@gov.scot or email about Advance Payments to: AdvancePaymentTeam@gov.scot

Contacts

If you wish to report your abuse, contact Police Scotland on 101 or Crimestoppers on 0800 555111.

If you wish to tell the Scottish Child Abuse Inquiry about your abuse, contact them on 0800 092 9300 or email talktous@childabuseinquiry.scot

If you need support, contact Future Pathways on 0800 164 2005 or email registration@future-pathways.co.uk

If you find you are distressed you can contact **Breathing Space** free of charge on 0800 83 85 87 or the **Samaritans** free of charge on 116 123.
