



FINANCIAL REDRESS FOR SURVIVORS OF HISTORICAL CHILD ABUSE IN CARE

The Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill

Information Note 9

March 2021

Previous Information Notes described the Bill at earlier stages. The information in this Note 9 is the final version of what is in the Bill.

On 11 March 2021, the Scottish Parliament voted unanimously to pass the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill (“the Bill”).

The Presiding Officer will now submit the Bill for Royal Assent. Once that is granted, it will be known as the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 and final steps can be taken towards the redress scheme becoming law.

It will 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.

Please note the scheme is not yet open. Work is underway to ensure that it will open for applications as soon as possible, **by December 2021 at the latest**, subject to the agreement of Redress Scotland. We need to make sure that the paperwork, procedures and staffing are in place to ensure the scheme is accessible, secure and works well for survivors. Until then, the Advance Payment Scheme will remain open for survivors who are terminally ill or age 68 and over.

The Bill, accompanying documents and links to evidence given during the Parliamentary process 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:

- **Dignity, respect and compassion** - the redress scheme must treat survivors in accordance with these principles.
- **Independent decision-making** - a new organisation, Redress Scotland, is being 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 whichever is the longer of five years, or two years following the publication by the Scottish Child Abuse Inquiry of its final report. However, there is a potential that opening period can be extended beyond this.
- **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 five levels -
 - £20,000,
 - £40,000,
 - £60,000,
 - £80,000 and
 - £100,000.
- **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 setting out evidential requirements, will be robust and credible but will also reflect the known challenges in this area of accessing records and providing evidence of historical abuse.
- **Financial Contributions** - fair and meaningful financial contributions to the redress scheme are being 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.

- **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. However, waivers can be ‘revoked’ (removed), and rights returned to survivors if an organisation fails to make the payments they agreed to contribute.
 - **Legal costs/advice** - subject to appropriate limits, the legal costs for applicants will be paid for as part of the redress scheme, allowing survivors access to free legal advice. All applicants will be encouraged to obtain independent legal advice throughout the process, and especially at the point of signing a waiver and accepting a payment.
 - **Next-of-kin** –some next-of-kin of deceased survivors will be eligible to apply for a next of kin payment of £10,000 where the survivor died on or after 1 December 2004.
 - **Non-financial redress** – the redress scheme will offer access to acknowledgement, apology and therapeutic support in addition to redress payments.
 - **Survivor Forum** - a forum for survivors and others will be established to provide feedback to the Scottish Ministers and Redress Scotland on the scheme.
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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.

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).

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

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” is defined as including sexual, physical and emotional abuse or abuse which takes the form of neglect.

When can I apply?

Work is underway to ensure that the scheme opens for applications as soon as possible - by December 2021 at the latest, subject to the agreement of Redress Scotland. We understand it may be hard for survivors waiting again when they have waited so long already, but there are important steps required which will take time. We need to set up Redress Scotland which is a completely new organisation – it will be making the decisions on applications and it is independent of Scottish Government. We also need to make sure the application process works for survivors and that applicants can get support if they need it.

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 5 levels of individually assessed redress payments, each level consists of a set payment:

- level 1 - £20,000;
- level 2 - £40,000;
- level 3 - £60,000;
- level 4 - £80,000;
- level 5 - £100,000.

If an application for an individually assessed redress payment does not meet the threshold required, 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 then an individually assessed payment?

Yes. 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 at this stage 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.

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.

Will it affect my benefits?

We are working 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 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 1 December 2004 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 mainly be funded by the Scottish Government. However, fair and meaningful financial contributions to the redress scheme are being sought from organisations involved in the care of children during the period covered by the scheme. Survivors have told us overwhelmingly, in response to previous consultations, that they wanted organisations to contribute along with the Government. We understand the importance of these organisations being part of the collective effort to face up to the harms of the past.

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

Redress payments do not depend on contributions from organisations. Your application and payment will be based on you meeting the eligibility criteria and providing the supporting evidence.

If the organisation that was involved in your care does not contribute, they will not be included in the waiver, and separate legal action can be

taken against them in addition to receiving the redress payment.

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

If you would like to receive updates on the progress towards scheme opening, please ask to join our mailing list. We need to get your permission to add you to this. We will send you a privacy notice and you need to reply to us giving us your permission.

The following link provides 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/>

For enquiries about the redress scheme

- You can contact us by phone on: 0808 169 9740. We are only 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 0808 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.
