



Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021

2021 asp 15

PART 4

FINANCIAL REDRESS: REDRESS PAYMENTS

CHAPTER 1

DETERMINATION OF APPLICATIONS FOR REDRESS PAYMENTS

Determination of applications

34 Prioritisation of applications

- (1) The chairing member of Redress Scotland must decide the order of priority in which applications for a redress payment are to be determined.
- (2) In making a decision under subsection (1), the chairing member must, in particular, have regard to—
 - (a) the age of the persons by whom applications are made, and
 - (b) to the extent that it is disclosed to Redress Scotland (in the application or otherwise), the health of those persons.

35 Decision-making panels

- (1) An application for a redress payment is to be determined on behalf of Redress Scotland by a panel of members of Redress Scotland appointed by the chairing member in accordance with this section.
- (2) A panel appointed to determine an application for a fixed rate payment or a next of kin payment is to consist of at least 2 members.
- (3) A panel appointed to determine an application for an individually assessed payment is to consist of at least 3 members.

36 Determination of applications

- (1) On receipt of an application by Redress Scotland under section 29, the panel appointed under section 35 to determine the application must determine—
 - (a) whether, on the balance of probabilities, the applicant is eligible for the type of redress payment sought, and
 - (b) if so, the amount which the applicant is to be offered.
- (2) An application is to be determined on the basis of—
 - (a) the information provided in or with the application,
 - (b) any further information provided in response to a request by the panel, and
 - (c) any other information which the panel considers relevant.
- (3) In determining an application, the panel is to start with the presumption that any information provided by the applicant in respect of the application is true and accurate to the best of the applicant's knowledge and belief.
- (4) When determining an application, the panel must not rule on, and has no power to determine, any person's civil or criminal liability arising from any matter to which the application relates.
- (5) The procedure for determining an application is otherwise to be determined by Redress Scotland.
- (6) Once the panel has determined the application, Redress Scotland must inform the Scottish Ministers who must, as soon as reasonably practicable—
 - (a) notify the applicant of the determination, and
 - (b) provide the applicant with—
 - (i) a summary, provided by Redress Scotland, of the panel's reasons for reaching that determination,
 - (ii) the summary of options, and
 - (iii) where an offer of a redress payment is made, information about the period for which the offer remains valid under section 49 and the options available to the applicant in respect of it.
- (7) For the purposes of other proceedings, neither the offer of a redress payment nor the failure to make an offer is to be taken as a finding as to whether or not a person who is referred to in an application acted, or failed to act, in a way suggested in the application.

37 Assessment of amount of redress payment

- (1) Where a panel is appointed under section 35 to determine an application for a redress payment, the amount of the redress payment (if any) to be offered in respect of the application is to be determined in accordance with this section.
- (2) An applicant is eligible for a redress payment where the panel is satisfied that—
 - (a) the applicant is eligible to apply for a redress payment by virtue of section 18,
 - (b) where the application is for a next of kin payment, the applicant is eligible to apply for a next of kin payment by virtue of section 24,
 - (c) the application satisfies the requirements of section 29 to the extent that they apply to the type of redress payment sought, and
 - (d) the applicant is not precluded from being offered a redress payment by virtue of section 60.

- (3) An applicant who is eligible for a redress payment is, subject to any deductions to be made in accordance with section 42, to be offered—
 - (a) on an application for a fixed rate payment, a fixed rate payment under section 38,
 - (b) on an application for an individually assessed payment, an individually assessed payment calculated in relation to the application under section 39 (which, in the case of an application made by virtue of section 30(2) or (3), may be zero), or
 - (c) on an application for a next of kin payment, a next of kin payment calculated in relation to the application under section 40.
- (4) In the case of an application which relates to more than one relevant care setting, only one determination of a redress payment may be made in respect of an application regardless of the number of care settings concerned.