



Historical Institutional Abuse (Northern Ireland) Act 2019

2019 CHAPTER 31

PART 1

THE HISTORICAL INSTITUTIONAL ABUSE REDRESS BOARD

Determination of application

7 Priority of applications

- (1) It is for the President of the Board to decide the order of priority in which applications for compensation under this Part are to be determined.
- (2) In making a decision under subsection (1), the President must have particular regard to—
 - (a) the age of each applicant, and
 - (b) in so far as it is disclosed on the application, the health of each applicant.

8 Appointment of panel

- (1) An application for compensation under this Part is to be determined on behalf of the Board by a panel appointed by the President of the Board.
- (2) A panel appointed under this section is to consist of—
 - (a) one judicial member of the Board, who is to be the chair of the panel, and
 - (b) two other members of the Board, neither of whom is a judicial member.
- (3) The panel must determine—
 - (a) whether compensation should be awarded on the application, and
 - (b) if so, the amount of compensation that should be awarded.

- (4) A panel appointed under section 6(2) may determine any application which it agreed to receive under that provision (as well as any other application for compensation under this Part); and, where it does so, the panel is to be treated for the purposes of this Act as if it had been appointed under this section.

9 Procedure

- (1) An application for compensation under this Part is to be determined by the panel appointed under section 8 on the basis of—
- (a) any material provided in support of the application,
 - (b) any material provided in response to a request by the panel (whether the request is made to the applicant, made for the purposes of subsection (2) or made for some other purpose),
 - (c) any evidence admitted under subsection (3) or given in a hearing directed under that subsection,
 - (d) any evidence provided or given pursuant to a notice under section 10,
 - (e) any advice from an advisor appointed under section 11, and
 - (f) any other material which the panel considers relevant.
- (2) The panel must, in so far as it is practicable to do so and in accordance with such provision as may be made in rules, request the body, society or organisation which provided residential accommodation in an institution to which the application relates to provide whatever information would enable the panel to verify the accuracy of information provided in support of the application.
- (3) The panel may, if it considers that there are exceptional circumstances which make it necessary to do so in the interests of justice—
- (a) allow fresh evidence to be admitted;
 - (b) direct an oral hearing to be held with the evidence to be given on oath.
- (4) An oral hearing directed by the panel under subsection (3)(b) is to be held in private unless the panel considers that it would be in the interests of justice for the hearing to be held in public.
- (5) Where the panel decides that it needs access to the records of the Inquiry in order to determine the application, the Public Record Office of Northern Ireland must allow the panel access to those records in accordance with whatever restrictions are in force under section 8 of the Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013.
- (6) The entitlement to compensation on the application is not affected by—
- (a) whether or not any matters to which the application relates were reported to the police;
 - (b) whether or not the person by or in respect of whom the application is made provided evidence to the Inquiry;
 - (c) whether or not the person by or in respect of whom the application is made has been convicted of an offence.
- (7) After the panel has determined the application, the secretary to the Board must notify the applicant in writing of the determination; and the notification must be accompanied by a summary of the panel's reasons for the determination.

- (8) The duty under subsection (2) does not arise if the person by or in respect of whom the application is made provided evidence to the Inquiry.
- (9) In this section, “the Inquiry” means the inquiry held under the Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013; but the references in this section to the Inquiry do not include a reference to that part of the Inquiry described in its terms of reference as the Acknowledgement Forum.

10 Power to compel giving of evidence

- (1) For the purpose of determining an application for compensation under this Part, the panel appointed under section 8 may by notice in writing require a person—
 - (a) to provide the panel on or before a specified date with specified records, documents, objects or other items of evidence, or
 - (b) to attend on one or more specified dates a hearing convened by the panel and to give oral evidence on oath to the panel.
- (2) A person to whom a notice under this section is given may make a claim to the panel that—
 - (a) the person is unable to comply with the notice, or
 - (b) it is not reasonable in all the circumstances to require the person to comply with the notice.
- (3) On a claim under subsection (2), the panel may confirm, revoke or vary the notice.
- (4) A person who is required by a notice under this section to provide records or documents must, if doing so would disclose information about another person which is irrelevant to the determination of the application under this Part and the disclosure of which would breach an obligation of confidence, provide the records or documents in a redacted form.
- (5) A notice under this section has effect in spite of anything which would otherwise prohibit a person from complying with the notice.
- (6) But a requirement of a notice does not have effect if—
 - (a) complying with the requirement would involve the disclosure of information which, although made in compliance with the requirement, would contravene the data protection legislation, or
 - (b) the person would be entitled in proceedings before the High Court in Northern Ireland to refuse to comply with the requirement.
- (7) A person commits an offence if the person fails to comply with a requirement of a notice under this section.
- (8) A person commits an offence if the person conceals, destroys, distorts or alters, or arranges for the concealment, destruction, distortion or alteration of anything required, or which there are reasonable grounds for believing might be required, to be provided to the panel by a notice under this section.
- (9) A person who is guilty of an offence under subsection (7) or (8) is liable on summary conviction to imprisonment for a term not exceeding six months, a fine not exceeding level 3 on the standard scale or both.

- (10) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

11 Advisors

- (1) The Board may appoint one or more persons to act as advisors to the Board.
- (2) A person may be appointed as an advisor only if it appears to the Board that the person has expertise that makes that person a suitable person to provide advice to the Board.
- (3) The Board may at any time terminate the appointment of an advisor.