

**South Lanarkshire Council
Redress for Survivors (Historic Child Abuse in Care) (Scotland) Bill**

Call for views questions	South Lanarkshire Council's Response
<p>1) The people who are eligible to apply to the scheme. 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).</p> <p>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).</p>	<p>South Lanarkshire Council agrees with this definition, but is concerned that children placed in schools by parents and admitted to hospitals for long-term medical reasons, who were abused, are not part of the scheme.</p>
<p>2) The Bill’s definition of abuse. 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.</p>	<p>South Lanarkshire Council agrees with this definition.</p>
<p>3) The dates used in the Bill to define ‘historical abuse’. 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.</p>	<p>South Lanarkshire Council agrees with this date.</p>
<p>4) The Bill’s definition of ‘in care’ and the places in which that care took place. 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).</p>	<p>South Lanarkshire Council is concerned this definition does not consider those abused historically in school setting and hospital settings if they were placed there by their parents.</p>

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<p>5) The process of applying for redress and what advice and support applicants might need, particularly in relation to the waiver scheme. Key features of the redress scheme:</p> <ul style="list-style-type: none"> • 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. 	<p>South Lanarkshire Council is satisfied with the process for applying for redress, but concerned about the additional work placed on its resources in respect of Subject Access Requests and the additional cost involved.</p>

<p>6) The level of payments offered to survivors. 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.</p> <ul style="list-style-type: none"> • The fixed rate redress payment is £10,000. <p>There are 3 levels of individually assessed redress payments, each level consists of a set payment:</p> <ul style="list-style-type: none"> • level 1 - £20,000; • level 2 - £40,000; • level 3 - £80,000. <p>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.</p> <p>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.</p>	<p>South Lanarkshire Council do not have any specific comment to make on the redress payment levels and are of the view that survivor groups should be consulted the proposed payment levels.</p>
<p>7) What you believe to be a ‘fair and meaningful’ contribution to the scheme from organisations responsible for abuse. 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.</p>	<p>South Lanarkshire Council is concerned that no detail on the basis of contributions is in the bill at present.</p> <p>It is assumed that Local Government contributions will be a significant proportion of the total cost of redress payments estimated at £350m.</p> <p>Council budgets are under pressure and they are facing significant increasing demands. This has been heightened at present due to the Council’s response to the Covid-19 pandemic.</p>

The Council's view is that no funds are available to meet these contributions and that further discussions are required through COSLA on how these significant burdens can be managed.

If councils have to find money to contribute towards a redress scheme, this will put further pressure on budgets and as a result, the funding available for other services will have to reduce.

There may be a requirement for councils to record significant sums of liability in this current year. Councils do not have funding to accommodate this.

The allocation basis requires to be fair and proportionate. South Lanarkshire Council's view is that there should be a link between the claims stemming from predecessor authority areas and the financial contributions sought.

We believe the Council is also at risk of further claims being intimated through litigation as a result of the scheme and advise that the Council has received a low number of claims to date.

The design of the scheme means it is unlikely that we can rely upon historic insurance cover to help fund our contributions due to the less stringent evidence requirements and lack of

	<p>liability determination. Ultimately we are likely to fail to access cover for this purpose despite having bought the insurance policies in good faith to cover abuse and other risks.</p> <p>Contributions to the Redress Scheme will place an additional funding pressure on the Council for losses that may otherwise have been insured.</p>
<p>8) The process for dealing with applications to the scheme from people who have serious convictions. 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.</p>	<p>South Lanarkshire supports this.</p>
<p>9) The process for family members to make an application on behalf of a survivor who has since died. 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.</p>	<p>South Lanarkshire supports this.</p>
<p>10) How to ensure that non-financial redress (e.g. an apology) meets the needs of survivors. Non-financial redress – the redress scheme will offer access to acknowledgement, apology and therapeutic support in addition to redress payments.</p>	<p>South Lanarkshire Council fully supports this and believes that survivor groups are best placed to advise the Scottish Government on how these supports should be provided and implemented.</p>

