



The Scottish Parliament
Pàrlamaid na h-Alba

EDUCATION AND SKILLS COMMITTEE

Introduction

This is an easy-read report about the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill.

A Bill is a draft law. You can find out more about laws and how they are made [here](#).

There are three stages to making a law in Scotland. This Bill (draft law) is currently at Stage 1. It is being looked at by the Scottish Parliament's Education and Skills Committee.

Help and Support

You may find some parts of this report distressing. If you need support, the following organisations can help:

Future Pathways - offers help and support to people who were abused or neglected as children while living in care in Scotland.

Survivor Telephone: 0808 164 2005 (Monday to Friday 10.00am to 6.00pm)

Email: registration@futurepathways.co.uk

Website: <http://www.future-pathways.co.uk/>

National Association for People Abused in Childhood (NAPAC)

- offers support to adult survivors of all types of childhood abuse, including physical, sexual, emotional abuse or neglect.

Support line: 0808 801 0331

Monday to Thursday 10am to 9pm, Friday 10am to 6pm

Calls are free from landlines and mobiles. They will not show on a phone bill.

website: <http://www.napac.org.uk/>

The Role of the Committee

The Committee's job at Stage 1 is to gather evidence. This means asking people what they think about the Bill. This includes finding out what works well and what could work better.

After the Committee has done this, their next job is to write a report. This provides a summary of all the evidence the Committee has heard. It also provides a list of recommendations for improvements. The Committee sends this to the Scottish Government. It also publishes the report on the Scottish Parliament's website.

The Committee asks the Scottish Government to write back to the Committee. In their letter, the Scottish Government will say if they plan to make any changes to the Bill at Stage 2.

What Does the Bill Do?

'Redress' is another way of saying 'putting things right'. The Bill creates a new compensation scheme. It is for people who experienced abuse in care in Scotland when they were children.

The new scheme means that they will be able to claim compensation for the abuse without having to go to court. Many victims/survivors avoid going to court as they can find it very stressful.

Some survivors can't go to court. This is because the courts can only look at abuse that took place after 1964.

Redress Scotland

The Bill also creates a new organisation called Redress Scotland.

Redress Scotland's job will be to look at the information provided by victims/survivors. It will then decide who should receive which level of payment. It will also deal with any appeals. This includes, for example, if someone disagrees with a decision and wants to challenge it.

Applying to the Scheme

The scheme means that victims/survivors can apply for two different types of payment. These include a fixed rate payment of £10,000 or an 'individualised' payment of either £20,000, £40,000 or £80,000.

The compensation that someone will receive from the redress scheme will depend on:

- whether the abuse took place over a long time;
- whether it happened a lot; and/or
- whether it was very severe.

It will also depend on the evidence that a victim/survivor can provide to prove what happened to them.

The Bill also says that victims/survivors should also be able to access other types of help. This includes emotional and psychological support (e.g. counselling).

All victims/survivors have the right to dignity, respect and compassion. The Committee said that the Bill should include a statement saying this.

Qualifying Dates

The new scheme is for anyone who experienced abuse in care in Scotland before the 1st of December 2004.

This was the date when the Scottish Government first apologised to victims/survivors of historical child abuse.

The Committee heard that this is different to the date used by the Scottish Child Abuse Inquiry.

The Scottish Child Abuse Inquiry can consider abuse that took place up to 14 December 2014.

Many people thought that was unfair. They pointed out that some victims/survivors could give evidence to the Scottish Child Abuse Inquiry.

At the same time, they would not be able to apply for compensation from the new redress scheme.

The Committee suggested that the Scottish Government should make the dates the same.

Definition of Abuse

The Bill covers sexual abuse, physical abuse, emotional abuse or neglect in care.

The Bill says that corporal punishment is not abuse if it was legal at the time it took place.

Many people told the Committee that this statement was unhelpful. They suggested that victims/survivors might see it and decide not to apply to the redress scheme.

The Cabinet Secretary for Education and Skills provided more information about this. He said that Redress Scotland could still look at corporal punishment where it was used in an abusive way.

The Committee encouraged the Scottish Government to look again at this part of the Bill.

The Committee also said that victims/survivors should understand exactly what evidence they will need to apply to the scheme. The Committee asked the Scottish Government to provide more information about this before Stage 2.

Relevant Care Settings

The Bill says that to apply to the scheme, you must have been in care in a 'relevant care setting'. This might be:

- a children's home;
- a residential care facility;
- school-related accommodation; or
- secure accommodation.

If someone was boarded-out or fostered, they can apply to the scheme if:

- their placement was with people they didn't know (someone who was not a family member); and
- their Local Authority or a voluntary organisation organised their placement.

Some people won't be able to apply to the new redress scheme. This is because the state did not place them in care. For example, they may have been sent to a boarding school by their parents.

These people may have experienced the same abuse in the same place as someone who was placed there by the state. They said it was unfair they couldn't claim a redress payment.

The Committee understood why the Scottish Government had limited who could apply to the redress scheme.

The Committee thought that Redress Scotland should sometimes be able to make an exception to the rules. This could allow someone who was placed in care by their parents to receive a redress payment.

The Committee asked the Scottish Government to look into this before the Bill moves to Stage 2.

Next of Kin Payments

If a victim/survivor has died after 17 November 2016, then the Bill says their next of kin can apply for a payment of £10,000. It also says which relatives count as someone's 'next of kin'.

The Committee heard concerns that this 2016 date would mean lots of people wouldn't be able to apply to the scheme.

The Committee said that this date should change. The Committee stated it should be the same as the date used for victims/survivors applying to the scheme.

The Committee also said that next of kin should be able to apply for more than £10,000. For example, if a victim/survivor had experienced severe abuse in care and their next of kin had evidence of this.

Victims/Survivors with Serious Offences

The Bill says that anyone can apply for compensation from the redress scheme. This includes people with serious offences.

It also says that sometimes it may not be in the public interest for Redress Scotland to make a payment to them.

This might be, for example, where someone has committed rape or murder – or where the person has abused a child.

The Committee said that it thought that it was right that everyone should be able to apply to the scheme. The Committee agreed that Redress Scotland should look at each case on its own merits.

The Committee said that those making decisions about this should be trauma-informed. They should think about how any past abuse may have affected someone's behaviour.

Waiver

The Bill says that the people responsible for abuse should help pay for the redress scheme.

The Bill says that if they do so, they can be part of a 'waiver' scheme.

Victims/survivors sign the waiver to receive their redress payment. Signing a waiver means that a victim/survivor agrees not to take an organisation to court in future.

Organisations who don't make a payment cannot be part of the waiver scheme.

The waiver was not popular with victims/survivors. They felt that it restricted their rights. They also felt that it benefited only organisations responsible for historical abuse.

Some people said it was important victims/survivors had good legal advice. This was because payments made by the courts could be much higher than the redress scheme. Victims/survivors would need to know exactly what they were signing.

Some organisations supported the waiver, but many did not.

Organisations' concerns were mainly about 'fair and meaningful' payments. The next section of this report talks about these in more detail.

Victims/survivors suggested that the redress scheme should have an off-setting model instead. This would allow victims/survivors to apply to the redress scheme now. They could also take an organisation to court in future.

If a victim/survivor did decide to go to court, then any compensation they received would be reduced. The court would look at any redress payment they had already received. This would avoid someone receiving double compensation for the same abuse.

The Committee asked the Scottish Government to explore whether an off-setting model would be possible.

The Committee heard that the waiver would not encourage most organisations to pay into the redress scheme.

Organisations responsible for historical child abuse should contribute to the redress scheme. The Committee asked the Scottish Government to explain how it will make that happen.

Fair and Meaningful Contributions

If an organisation wants to pay into the redress scheme, it must make a 'fair and meaningful' payment.

Organisations told the Committee that they wanted to be part of the redress scheme. They also said that it was difficult for them to do so. This was because there wasn't enough information about how much they would have to pay.

A 'fair and meaningful' payment will be different for each organisation. It will look at how many children they had in their care and for how long.

Organisations wanted to make sure they could continue offering services today. They said they could not make a payment to the redress scheme if it would threaten their organisation's survival.

The Committee said the Scottish Government should make this part of the Bill clearer. The Committee said that organisations should know what they will have to pay.

When deciding what a 'fair and meaningful' payment should be, the Committee said the Scottish Government should think about:

- any payments the organisation might already have made towards redress; and
- whether a payment will affect an organisation's ability to offer services today and in the future.

Support Needs of Victims/Survivors

Victims/survivors should receive support to access the redress scheme.

The Committee said that support should be available before, during and after someone has made an application.

This support should be flexible and designed around victims'/survivors' own needs.

Support might include:

- legal advice;
- practical support (e.g. finding care records); and/or
- emotional/psychological support.

The Scottish Government should provide more information about support. This includes who can help a survivor make an application to the redress scheme.

For example, Committee Members suggested it would be wrong for anyone to make money from supporting a survivor to make an application.

Victims/survivors spoke highly of the support they had received from the Scottish Child Abuse Inquiry (SCAI) team.

The Committee recommended that the Scottish Government should speak to the SCAI team. This would help the Scottish Government better understand what SCAI had done well.

The Scottish Government should look at other redress schemes and the types of support they offered. This would help the Scottish Government identify examples of best practice. They could use these for the Scottish scheme.

Involvement of Victims/Survivors in Scheme

The Scottish Government is creating a Survivor Forum. This will make sure that victims/survivors are involved in developing the new redress scheme.

The Committee welcomed this. Their involvement should help break down barriers and make the scheme as accessible as possible to victims/survivors.

Apologies

The Committee heard that a meaningful apology could make a huge difference to a victim/survivor.

The Committee said that apologies should be:

- meaningful;
- offered by a senior member of staff (e.g. a Chief Executive);
- dignified and respectful; and
- reflect the victim's/survivor's own needs, including what would help them find closure.

The Scottish Government should provide training to help this happen. This should be offered to all organisations responsible for historical abuse.

Redress Payments and Benefits Payments

The Committee recommended that redress payments should not be counted as income. This includes, for example, when someone is calculating benefits payments. This will help victims/survivors keep their whole redress payment.

The Scottish Government should speak to the UK Government about this. Many benefits are the responsibility of the UK Government.

The Scottish Government should also think about how else they can help. For example, they should think about how redress payments may affect care home fees.

Duration of the Redress Scheme

The new redress scheme will last for 5 years. It can stay open for longer in some circumstances. For example, if lots of victims/survivors are still applying to the redress scheme.

Many people said that 5 years was too short a time for victims/survivors to access redress.

The Committee said that there should be a review of the redress scheme after 4 years. This would recommend whether the redress scheme should close or be extended.

The Scottish Parliament should look at the review findings to make sure any decision taken is fair.

Advance Payment Scheme

The Committee heard that some victims/survivors are struggling financially due to COVID-19.

The Scottish Government created an Advance Payment Scheme in 2019. This scheme can make a £10,000 payment to victims/survivors over the age of 68 and those with a terminal illness.

The advance payment scheme will disappear once the new redress scheme is in place.

In the meantime, the Committee asked the Scottish Government to reduce the age limit for the Advance Payment Scheme.

This would allow older victims/survivors to receive a redress payment as soon as possible.

Conclusion

Victims/survivors have been fighting for redress for many years. This scheme will provide the first opportunity for victims/survivors of abuse that took place before 1964 to claim redress.

The Committee recognises the Scottish Government's engagement with victim/survivor communities. It hopes that this will continue as the Bill makes its way through the Scottish Parliament.

This redress scheme will not provide the solution that all victims/survivors are seeking. Some victims/survivors may still wish to go to court instead.

There are some issues with the waiver and how 'fair and meaningful' contributions are calculated. These need to be addressed.

Yet the Bill does create a straightforward, easy to access scheme. This will help victims/survivors find the redress and remedy they deserve.

The Committee recommends that the Bill should be agreed at Stage 1 and should move forward to Stage 2.