

Information for organisations considering participating in the Redress Scheme for Survivors of historical abuse in care in Scotland



Scottish Government
Riaghaltas na h-Alba
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1. Introduction

1. This document provides information on elements of Scotland's Redress Scheme, as established by the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 ("the Act"). This scheme provides financial and non-financial redress to survivors of historical child abuse in care, as part of a national collective endeavour to address the harms of the past.
2. This information is provided for the assistance of organisations who are considering, or are already, participating in the scheme. The intention is for this information to support organisations to understand what is expected of scheme contributors and to set out the processes that will underpin their involvement in the scheme, which in turn contributes to the delivery of redress to survivors.
3. Individuals wishing to apply to the redress scheme should follow the link below.

<https://www.mygov.scot/redress>

2. Background

4. The Scottish Government's ambition for children and young people is that they grow up loved, safe and respected so that they realise their full potential. For many of Scotland's most vulnerable children who experienced the care system in the past, the reality was utterly different. Many of these children were not treated with love or with respect and, rather than being kept safe, they were exposed to danger and abused by those responsible for their care, often leaving them with lifelong consequences.
5. Nothing can ever make up for the suffering which survivors of abuse have endured. Survivors of historical abuse in care have campaigned with dedication and perseverance for access to justice, improved accountability, and redress. Importantly, they want, and deserve, to be listened to, heard and believed. For too long, survivors of abuse were not acknowledged and the truth of their abuse was neither accepted nor acted upon, for some compounding the effects of their childhood. We believe that the wrongs of the past must be addressed and financial redress is an important part of doing that.
6. On 23 October 2018, in a statement in the Scottish Parliament, the Deputy First Minister, John Swinney MSP said: "Today, on behalf of the Scottish Government, I offer an unreserved and heartfelt apology to everyone who suffered abuse in care in Scotland. We are deeply ashamed of what happened."
7. Planning for a Redress Scheme began in 2016 and a consultation with survivors of historic abuse was carried out in 2017. Work has continued to establish and deliver the redress scheme and to set up Redress Scotland, a new independent body to perform the decision making functions of the scheme. On 25 April 2019, we opened the Advance Payment Scheme which offered government funded payments of £10,000 to survivors who are elderly (aged 68 or over) or have a terminal illness. So far more than 700 Advanced Payments have been made through this scheme.
8. The Advanced Payment Scheme was a first important step but we have now put in place a statutory redress scheme, underpinned by an Act of the Scottish Parliament. Scotland's redress scheme aims to respond to survivors of abuse in care from the 1930s up until 2004 when the then First Minister, Jack McConnell, made an apology in the Scottish Parliament for the historical abuse of children in care.
9. We believe that organisations that were responsible for the care of children at the time they experienced abuse should meaningfully participate in this national collective endeavour to recognise the harms of the past. This would be done by contributing to the scheme financially and by acting consistently with its spirit and ethos, and acknowledging the harms of the past. This is referred to as making a 'fair and meaningful' financial contribution, and this is explored in more depth later in the '[fair and meaningful contribution](#)' section of this document. While the decision to participate in the scheme is voluntary, a scheme without contributions from other organisations would not be the scheme the majority of survivors have told us they want.
10. There are two different redress payments available to survivors under the scheme:
 - fixed rate payments of £10,000;
 - individually assessed redress payments which can range from £20,000 to £100,000 depending on the nature, severity, frequency and duration of abuse experienced, and other relevant factors.
11. The amount of redress paid to survivors will not be affected by whether any particular organisation has contributed to the scheme, or whether those responsible for their abuse are alive today. If an applicant accepts an offer of a redress payment as determined by Redress

Scotland, they will receive that payment, irrespective of whether or not the organisation(s) responsible for their care have contributed. Where an organisation does not contribute, or where that organisation no longer exists, the Scottish Government will meet any shortfall.

12. Any previous payments made to the survivor or the applicant in relation to the abuse covered by the application will be deducted from the value of any redress payment offered.
13. The scheme is designed as an alternative to the civil court process. It is intended to offer a route to justice which is not available to some survivors and to offer choice to those who may not wish to pursue an action in court. The choice of whether to seek redress through the scheme, or to pursue action in court, will always sit with survivors unless and until they choose to accept a redress payment, and each individual will make that choice based on their own individual circumstances.
14. The scheme does not establish blame or liability for the abuse suffered. Redress Scotland will consider applications for redress by looking at the applicant's abusive experience in childhood as set out in the application, in its totality.
15. The scheme will be managed by two different organisations. Redress Scotland will make decisions on applications. A new Redress Division in the Scottish Government will offer support to survivors considering applying to the scheme, in a similar way as they do currently for the Advance Payment Scheme¹. The Scottish Government Redress Division will:
 - help survivors and others with questions about the redress scheme and how to apply;
 - help applicants access practical help (for example finding records) and emotional support;
 - make sure applicants are aware of their rights and options under the scheme, including the payment of applicants' legal fees related to redress applications;
 - receive applications and pass these to Redress Scotland for decision;
 - inform applicants if their application has been successful and what level of redress payment is being offered;
 - explain the process if an applicant wants a review on a decision from Redress Scotland;
 - facilitate official apologies to applicants if requested;
 - arrange access to counselling at the end of the process if applicants request it;
 - pay redress payments;
 - pay applicants' legal fees related to redress applications;
 - pay applicants' expenses related to redress applications;
 - process contributions from organisations and provide information and updates to organisations as required;
 - review contribution payment schedules and any other relevant matters with organisations; and
 - manage the Contributor List.

Redress Scotland will:

- receive applications from the Redress Division when the survivor is ready for it to be considered and make decisions about whether the applicant is eligible;
- tell the Redress Division what they decide, or if they need more information before they can make a decision;
- tell the Redress Division what level of payment should be offered to the applicant; and
- review decisions where the applicant requests it using a different panel of members from that which made the original decision.

¹ The Advance Payment Scheme is a non-statutory precursor to the statutory redress scheme offering fixed payments of £10,000 to survivors who are elderly or have a terminal diagnosis and funded entirely by the Scottish Government.

3. Rationale for participation

16. Being part of the redress scheme gives organisations the opportunity to be part of a nationwide, collective effort to face up to the harms of the past. It demonstrates support for faster, trauma informed, access to redress for survivors. Providing contributions to the Redress Scheme should enable organisations to address concerns raised by those who were in their care, and without the costs which may be associated with the civil court process. Participating organisations will also be included on the list of scheme contributors and therefore subject to the scheme's waiver. Such organisations will therefore benefit from the legal protection the waiver provides where applicants accept a payment from the scheme.
17. There is a moral imperative to do the right thing for survivors but the scheme also recognises and responds to the moral duty of organisations to secure the sustainability of important services they may provide today.
18. If an organisation does not make a fair and meaningful contribution, and is not named on the contributor list, then the applicant is able to receive the redress payment and raise legal action against the organisation.
19. In those circumstances the applicant will be more financially secure and may feel more personally resilient, due to the non-financial redress and independent legal advice they are able to access through the scheme, than they were previously. It is possible that they would be more likely to raise legal action than before they applied to the scheme.
20. This scheme, as in other schemes, for example those in Lambeth and in Northern Ireland, has adopted a standard of proof of the balance of probabilities. Redress Scotland will make evidence based decisions on applications received.
21. The Scottish Government will meet all the costs of setting up and delivering the redress scheme, including those associated with providing support to survivors during the application process and delivering non-financial redress, such as therapeutic support, as well as the legal fees for applicants.
22. Taking part in this scheme gives organisations the opportunity to be part of a national collective endeavour which acknowledges and faces up to the failings of the past in a trauma-informed and survivor focussed way. For organisations that were responsible for the care of children at the time of the abuse, participating in this scheme is simply the right thing to do.

4. A fair and meaningful contribution

23. Contributions to the redress scheme must be in the interests of survivors. They should reflect an intention to be fair to survivors, to society and to the organisation making the contribution who may still be delivering important services today. Contributions to the redress scheme are not simply financial transactions. They should be given as a meaningful acknowledgement of any past harm that may have occurred in an organisation's care. An organisation making a contribution should do so with dignity, compassion and respect as these are the principles that underpin the scheme.
24. The making of a fair and meaningful contribution is required for an organisation to be accepted into the scheme and included on the scheme contributor list, and the organisation must, in making such a contribution acknowledge the wrongfulness of, and the harm caused by, the historical child abuse which took place in relevant care settings. Further information on acknowledgment is provided in the [acknowledgment](#) section of this document. The contributor list is a key part of the scheme and is explored in more detail in [the contributor list](#) section of this document.
25. As mentioned above, the Scottish Government will ensure applicants receive the full redress payment as determined by Redress Scotland. Where a relevant organisation is not participating in the scheme, the Scottish Government will ensure the applicant receives the redress payment to which they are entitled, including paying the full redress payment if necessary. Where a relevant organisation is participating in the scheme, the Scottish Government will as a general rule fund the greater of £10,000 or one third of each individually assessed payment. This contribution is a demonstration of the collective response to the harms of the past that redress represents, and the responsibility for the legislative and policy system relating to the provision of care. Therefore, the starting point for a fair and meaningful contribution from a participating organisation is, subject to the consideration of affordability and sustainability, that the organisation's contribution should represent our best estimate of the remainder of all individually assessed payments which relate to them.
26. The Act requires Scottish Ministers to take into account the affordability of a fair and meaningful contribution for each organisation. Scottish Ministers are also required to take into account the sustainability of current and future services provided by the organisation, and the impact that making a fair and meaningful contribution may have on these services. If affordability or sustainability is an issue for an organisation, the Scottish Ministers may consider agreeing an extended time period over which contributions can be made or an amended payment schedule that spreads the cost in different ways, or a reduced contribution amount where justified in exceptional circumstances.
27. An organisation should seek independent advice before joining the scheme given each organisation's historical and current circumstances, including their financial circumstances, will be different. The Scottish Government is unable to provide individual financial advice in respect of participation but we appreciate some of the complex funding issues for organisations and the careful consideration which must be given to the decision to participate in Scotland's redress scheme.

5. Acknowledgement

28. In order to be publicly listed as a scheme contributor, and therefore be included in the waiver provisions, organisations must both contribute a fair and meaningful financial contribution and provide the acknowledgement required by section 14 of the Act. Further information on the waiver is contained in the [waiver](#) section of this document.
29. The purpose of the redress scheme is not to determine liability for abuse in a way that a court would, or in a way that would have legal consequences outside the redress scheme itself. Therefore, section 14 makes it clear that the fact of being a scheme contributor or giving the acknowledgement required by section 14 cannot, for the purposes of other proceedings, be taken as evidence of anything relevant to the determination of liability in connection with an allegation of abuse.
30. The acknowledgement of wrongfulness must be by each contributor, and must be done publicly. It is up to each scheme contributor to determine how to frame its acknowledgement. This could be a short statement within a letter to Ministers confirming participation in the scheme that is subsequently made public, but organisations are free to take further steps should they wish to do so and propose alternative ways to make their acknowledgment. An organisation will not be listed on the contributor list until the acknowledgement has been made.
31. The fundamental principles of dignity, respect and compassion that underline the scheme as a whole must be reflected in the acknowledgement.
32. Scottish Ministers have the discretion as to whether to accept the contribution that an organisation is offering to make, and will only do so if this is fair and meaningful. The Act is clear that the financial contribution must be aligned with the acknowledgement, and with acting in a manner which respects the principles of dignity, respect and compassion regarding survivors of abuse.
33. In order for the acknowledgement to be survivor focussed, respectful of the principles of the scheme, and trauma informed we would look to work with organisations regarding the timing of release and if requested to do so, the form of acknowledgement. The Scottish Government will not prescribe the form of words, it is a matter for the organisation in question to consider the legacy they seek to address and how best to express their acknowledgement of the harms of the past.

6. Participation options

35. Contributions can be made through one of two participation options. These options have been informed by extensive engagement with a range of organisations and are designed to accommodate the diverse nature of bodies involved in the historical care landscape. The participation options are known as 'defined contributions' and 'redress payments determined' and allow the Scottish Ministers to make an assessment of whether a proposed contribution can be considered fair and meaningful. In both options, participating organisations need to enter into a contract with the Scottish Ministers. Further information on the contracts process is contained in the [contracts](#) section of this document. The participation options are outlined here.

Defined contributions approach

36. Participating on a defined contributions basis means the organisation and the Scottish Ministers agree a maximum financial contribution which can be accepted as fair and meaningful, based on the best available information about that organisation, their services and what is known about their historical legacy relating to abuse prior to 2004. This sum will always be based on an estimate of individually assessed payments likely to relate to that organisation. While the best available information will be used, uncertainty will remain in estimating the number of children who were abused in care, the number of people who may apply to the scheme, and the values of the redress payments which may be made to applicants. The contribution to be agreed can be informed by considerations of affordability relating to the organisation. A payment schedule will be agreed with the organisation to allow for financial planning in relation to contributions. This will be regularly reviewed jointly with the participating organisation as the scheme progresses and can be adjusted if necessary.. While the payment schedule can be adjusted to take account of the operation of the scheme, up to that maximum financial contribution figure if relevant redress payments so demand, the maximum contribution will not change.

Redress payments determined approach

37. Participating on a redress payments determined basis means that, in order to be added to the contributor list the organisation agrees to pay an initial sum to fund any redress payments made where the application has named a care setting for which the organisation was responsible as a place of abuse. When applications are received and the initial contribution has been allocated to fund these, the Scottish Ministers will make arrangements with the organisation on a case-by-case basis for their contribution to any further redress payments relevant to the organisation. If, at the end of the scheme, no applications are received relevant to the organisation the initial contribution will be refunded.

38. In both approaches, the redress payments made to applicants will play a key role in the assessment of contributions, however fair and meaningful contributions are not about a particular organisation paying redress to any named applicant, rather it is a national, collective scheme to redress the harms of the past.

39. Participating organisations in both approaches will be kept informed of how their contribution is used through regular reports. The contribution payment schedule can be amended to adjust the amounts (either upwards or downwards) of any instalment which has not yet been paid, and this may include adjustment of the total amount of the contribution within the limits of any cap which has been agreed. Such an amendment may take place where the Scottish Ministers have notified the contributor of their intention to amend the payment schedule (in which case the contributor will have 28 days to make representations), or where the contributor has submitted a request to the Scottish Ministers to do so. For either form of participation, when

the scheme closes any excess of contributions made but not used to fund redress payments will be refunded to the participating organisation.

Local government contributions

40. Local Authorities in Scotland have held responsibilities for the care of children throughout the period covered by the redress scheme. The Scottish Government's approach has, from the outset, been to seek to agree a collective contribution from Scottish local authorities, to reflect the legacy of local government responsibility for historical child abuse in relevant care settings. This contribution will reflect the responsibility of local authorities for abuse carried out in care settings operated by them or in foster care, but also the broader responsibility of local authorities for the placing of children in care, the oversight and scrutiny of care in their areas and the historical failure to respond appropriately to allegations of abuse where they were made. We must also recognise the restructuring of local government in Scotland in 1975 and 1996, as well as the evolution of the local government role in caring for children in the post war period. Local government has acknowledged its role as a major provider of support for children, directly and indirectly, over many years and recognises its responsibility to address the wrongs of the past.
41. Given the breadth of local government involvement, it is difficult to reliably estimate the proportion of redress payments which will be attributable to local government. Wider responsibility, beyond the provision of direct residential care, can be difficult to ascertain due to the passage of time, retention of records, and restructuring of local authority boundaries and responsibilities. The full extent of local authorities' involvement in, or responsibility for, historical abuse may not fully come to light in specific applications as their role may not be known or recognised by the survivor applicant.
42. Additionally, local authorities have had, and continue to have, duties to provide certain services to children, which differentiates them from other organisations.
43. All local authorities have an ongoing responsibility for providing a broad range of public services in their community – sustainability of these wide ranging public services is a key consideration in respect of local authorities.
44. The approach of Scottish Ministers to local authorities' financial contribution reflects those distinctions and differences which set them apart from third sector organisations and other providers. However, Scottish Ministers have been clear that they expect the public sector to play their part in the redress scheme and local government has agreed to make a collective, substantial and significant contribution.

7. Contracts

45. Contributors who wish to make a fair and meaningful financial contribution towards the funding of redress payments will be asked to enter into a contract with the Scottish Ministers to regulate the terms upon which their contribution will be made. The contracts will cover:
- how and when instalments of the contribution are to be paid;
 - how the contribution is to be used;
 - the requirements on the Scottish Ministers to keep financial records of sums contributed and sums allocated; and,
 - how the payment schedule may be amended to change the value of instalments.
46. They will also set out actions the Scottish Ministers and the organisation will take and the circumstances in which the contract may be terminated.
47. We recognise the importance of keeping organisations informed so they can plan appropriately. The contracts which govern an organisation's participation will provide that participating organisations will receive regular 'Contribution and Allocation reports' to show how much money has been received in contributions from the organisation, and how much has been allocated from that contribution to payments to survivors.
48. It is important that survivors are assured that scheme contributors will keep the commitments they have made and that, in the event of failure to do so, then the Scottish Ministers will take action to hold the organisation to account. The Scottish Ministers will consider the most appropriate course of action available under the terms of the contract. This could include removal from the contributor list, and revoking of waivers where a scheme contributor has defaulted, leaving redress payments unfunded.

Final reconciliation

49. Following the end of the scheme, when all applications have been settled and all contributions made, a final reconciliation will take place. This will result in a final 'Contribution and Allocation report'. Should contributions made exceed the value of redress payments relevant to them, then the excess contribution would be returned to the organisation.

8. The Contributor List

50. Ministers are required by section 14 of the Act to prepare and publish a list of organisations which are making or have agreed to make fair and meaningful contributions (“the contributor list”). The contributor list will be publicly available and will be updated as appropriate. The contributor list will contain the date that each contributor was added to the list, the financial commitment they are making or have agreed to make, the date that a contributor is removed from the list, and the date that any removal takes effect. Further information about the contributor list is set out in the Statement of Principles regarding Financial Contributions, a link to which is provided in the [further information](#) section below, alongside a link to the contributor list.
51. The purpose of the contributor list is to show the organisations subject to the waiver to be signed by recipients of redress payments as a result of them making a fair and meaningful contribution to the redress scheme. The waiver applies organisations and not to individual care settings, further information on the waiver is provided in the [waiver](#) section of this document. Individuals cannot be included on the contributor list. Organisations that may be included as scheme contributors are those which exercise or have exercised functions in relation to safeguarding or promoting the welfare of children or protecting or furthering their interests. These are known as “relevant organisations”. These include an organisation which owned, managed or was otherwise connected to relevant care settings, or organisations which placed children they were responsible for in relevant care settings. More information on relevant care settings and the eligibility criteria for the scheme can be found in Part 3 of the Act.
52. An organisation will only be added to the contributor list once contracts are agreed, they have made an agreed initial payment towards their overall contribution, and have made the required acknowledgement.
53. There are some general requirements and conditions for being on the contributor list. These are:
- the scheme contributor must make a public statement to explicitly acknowledge the wrongfulness of, and the harm caused by, the historical child abuse which took place in relevant care settings. More information on this is contained in the [acknowledgement](#) section of this document.
 - the scheme contributor must treat applicants to the scheme, people thinking about applying to the scheme, and those provided with support by the scheme with dignity, respect and compassion. This is a fundamental principle of the scheme.
 - the scheme contributor must provide reports to the Scottish Ministers on an annual basis about other redress activity they have carried out in that year. More information on this is provided in the [wider redress reporting](#) section of this document.
 - scheme contributors should not act in any way, including making written or verbal statements, that would undermine the acknowledgement they have made.
 - scheme contributors must immediately notify the Scottish Ministers if, for any reason, they enter into financial difficulty which might prevent them from making any future expected payments that had been agreed with the Scottish Ministers.

9. Withdrawal from the scheme

54. It is our intention to work collaboratively with organisations to sustain participation in the scheme, where possible, should their financial circumstances change. Where a scheme contributor indicates that they will be unable to make the agreed contribution, we will work with that organisation as a matter of urgency to consider adjusting the payment schedule to allow that payment to be made.
55. If it is ultimately not possible for the organisation to make their fair and meaningful contribution in a way that is manageable and sustainable due to a change of financial circumstance, or for another unexpected reason, we will work with the organisation to manage their exit from the scheme.

Removal from the contributor list

56. If an organisation is to be removed from the contributor list, we will undertake a reconciliation exercise to establish if there are any waivers which have been signed by recipients of redress payments which are unsupported by the contribution from the organisation. If so the organisation will be offered the opportunity to provide that outstanding contribution.
57. If it is not possible to provide any outstanding contribution, then the contributor will be removed from the contributor list with retrospective effect. In these circumstances the Scottish Ministers must specify the date that retrospective removal takes effect. Any waivers signed by recipients of redress payments relating to redress applications decided by Redress Scotland after that date will no longer apply and the recipient will have their right to raise legal action against the organisation returned to them.
58. In either circumstance of removal, the date of removal will be added to the contributor list to ensure applicants and potential applicants remain informed of which organisations are included on the list at any particular time.

Breaching the principles

59. It is vital that all have confidence in the Scotland's redress scheme. Organisations can be removed from the contributor list if their actions breach the undertaking they have given to treat applicants and other relevant persons with dignity, respect and compassion, or to contradict the acknowledgement they made as to the wrongfulness of, and the harm caused by, the historical child abuse which took place in relevant care settings.

10. Waiver

61. The redress scheme is designed to be an alternative to civil litigation. The Act requires all applicants to sign and return a waiver if they wish to accept a redress payment.
62. The waiver is a legally binding document which is designed to encourage meaningful financial contributions from organisations that had involvement in the care of children when abuse occurred by supporting a proactive, public acknowledgement of the wrongs of the past while minimising the risks associated with costly litigation.
63. By signing the waiver, the applicant agrees not to continue or raise civil actions, such as actions for damages, in respect of abuse eligible under the Act, against the Scottish Ministers and those on the contributor list at the time their application was determined by Redress Scotland.
64. Only organisations who are included on the contributor list when an application is determined will be covered by the waiver. If an organisation is not on the contributor list when an application is determined, then that applicant will retain the right to raise civil action against that organisation and accept an offer of a redress payment.
65. To help applicants make informed decisions about whether or not they should accept an offer of a redress payment and sign the waiver, they will receive a copy of the contributor list as on the date when their application was determined. This will ensure applicants know which organisations they would be waiving their rights to raise or continue civil actions against, should they accept the offer of a redress payment.
66. Applicants will be strongly encouraged to seek independent legal advice, which will be available at no cost to them, to help them understand the effect of signing the waiver.

Effect of the waiver

67. Where an applicant accepts an offer of a redress payment, and therefore signs a waiver, they relinquish their right to pursue any legal action with any organisation on the contributor list at the time when a decision was made by Redress Scotland on their application.
68. The receipt of any redress payment is dependent on the signing of a waiver. Should those considering applying to the redress scheme prefer to retain their right to continue or pursue legal action against any organisation, including those on the contributor list, they may decide to reject an offer of a redress payment or not apply to the scheme.
69. There are a number of valid reasons why an applicant might decide against signing a waiver including the potential value of any legal action or the accountability and acknowledgement that comes with formal adjudication.

11. Composition of redress payments

70. Redress payments are designed to be a reflection of the cumulative childhood abusive experience of survivors, and contributions from scheme participants should reflect this. Any form of detailed attribution of responsibility to organisations would require there to be decision making akin to a determination as to whether liability for abuse rests with one organisation more than another, as would be found in litigation. The Act provides that the scheme is not about establishing liability. Drawing fine distinctions between organisations responsible for the care of an applicant to the scheme would also undermine the national collective endeavour which the scheme represents, which proceeds on the understanding that all applicants were failed by someone, often many people, at various levels of the care system at that time.
71. In cases where an application has named various care settings which were operated by different organisations, then the value of the contribution that is drawn from participating organisations, once the Scottish Government contribution has been made, will be shared equally amongst all of the participating organisations depending on the number of settings that were operated by each organisation.
72. Abuse is a deeply personal experience, and in the context of a trauma informed non-adversarial and collective approach to redress, it would not be appropriate or even possible for Redress Scotland, the Scottish Government or participating organisations to accurately determine how the experiences in one abusive environment compared with or contributed to experiences elsewhere. For organisations where the information given in applications which name them would result in offers of lower redress payments, they may avoid being allocated contributions and ultimately end up contributing a sum which does not reflect the value of redress payments made in relation to them. Equally, for organisations where the information given in applications which name them would result in offers of higher redress payments, they may be consistently allocated the majority of a redress payment and their contribution could be distributed to smaller number of survivors in a way which does not reflect their participation in the scheme as a whole.
73. Allocating contributions equally amongst organisations named in applications represents a holistic approach to abuse and is consistent with the ethos of the scheme being a national collective endeavour and not seeking to attribute blame or liability.

12. Evidence requirements and the standard of proof

74. The redress scheme is an alternative to court and does not seek to establish fault or liability, therefore the evidence required to support a redress application is different to that required to support civil or criminal court action. Further information on the evidence requirements for the scheme are available in the statutory guidance which is available online, and a link has been provided in the [further information](#) section of this document.
75. Applicants may face challenges in obtaining evidence, both of being in care in the settings covered by the redress scheme, and of abuse that happened a long time ago. Many survivors will not have told anyone what happened to them at the time, or if they did, that it may not have been recorded or acted upon. It is also understood that record keeping was often inconsistent or inadequate in the past, and that for a variety of reasons, records which were kept may no longer be available. This understanding and knowledge has been applied in setting evidential requirements and care has been taken not to create barriers or burdens which are simply too high, or unachievable.
76. Individuals who apply to the redress scheme are required to submit:
- A completed and signed application form, including a written statement either within that application form or attached to it.
 - Evidence of identification.
 - A supporting document to confirm that the applicant was resident in a relevant care setting as a child before 1 December 2004.²
 - Where the application is for an Individually Assessed Payment and relates to abuse that occurred whilst the applicant was resident in multiple relevant care settings, where possible, supporting documentation to confirm residency in each relevant care setting, should be provided
 - If an applicant was resident in a private boarding school when the abuse took place, the applicant must submit documentary evidence of who organised and paid for the placement.
 - Where the application is for an Individually Assessed Payment, supporting documentation to establish the abuse to which the application relates, must also be submitted.
 - If a relevant payment has been made in terms of section 42 of the Act, supporting documentation in relation to that payment is required.
77. Individuals who are applying for a next of kin redress payment will need to provide further information specific to their own eligibility for a next of kin redress payment.

Verification of evidence

78. Scottish Government caseworkers will seek to verify documents provided and notwithstanding these general requirements, there may be circumstances where one or more of the above is not submitted by the applicant. In such cases, the matter will be determined by Redress Scotland, and further information on this is set out below.
79. If the applicant has previously received a relevant payment, which is a payment in relation to the abuse mentioned in their application, then this will also be verified.
80. It is possible that an applicant may previously have applied to the scheme, for example they initially applied for a fixed rate payment, but later discovers new information and decides to apply for an individually assessed payment. In these circumstances the applicant would not

² Further information on the eligibility criteria of the redress scheme, including the definition of a relevant care setting, can be found in the eligibility statutory guidance, a link to which is provided at the end of this document.

need to resubmit the same evidence as the previous evidence can be relied upon, though further evidence may be required.

Determinations by Redress Scotland

81. Redress Scotland, as an independent body, is solely responsible for determining the eligibility of an applicant and the level of redress payment to be offered. Decisions about applications will be made by panels of members of Redress Scotland, appointed by the Chair of Redress Scotland.
82. When a Redress Scotland panel is considering an application to the scheme, they will take account of information provided in the application, as well as any other publicly available information that they consider is relevant, for example findings by the Scottish Child Abuse Inquiry (SCAI).
83. Any individually assessed redress payment is to be offered in addition to a fixed rate redress payment, and so in these cases the panel will decide whether a further sum in addition to the fixed rate payment is appropriate. There are five levels of individually assessed payment that can be offered through the scheme. Including the fixed rate payment these are £20,000, £40,000, £60,000, £80,000 or £100,000.
84. The panel will decide what level of individually assessed payment is to be offered based upon the nature, severity, frequency and duration of the abuse presented in the application.

Key Principles

85. The key principles Redress Scotland will follow when determining an application are:
 - The presumption of truth - the panel members must 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. This presumption of truth is supportive of a non-adversarial and trauma informed approach to redress and recognises the challenges for individuals having to disclose personal and sensitive information about abuse.
 - Balance of probabilities - The Act sets out the standard of proof against which an applicant's eligibility for a redress payment will be determined. This is the civil court standard of "balance of probabilities". Something is established on the balance of probabilities if the evidence presented is sufficient for the decision-maker to conclude that it is more likely than not to be true.
86. All applications, either for fixed rate, individually assessed or next of kin redress payments will be subject to the same standard of proof.
87. The presumption of truth is the starting point, but it is a presumption and not an absolute. In some circumstances, having considered the application and any evidence submitted it will be appropriate to rebut or overturn the presumption. In other cases, despite the presumption, the supporting evidence may not allow Redress Scotland to be satisfied to the required standard of proof.
88. The redress scheme must be robust and credible to ensure survivors, contributing organisations and others, have confidence that the appropriate levels of redress payments are being paid to those eligible to receive them. The scheme must treat all applicants with compassion, dignity and respect, whilst having adequate checks and balances to deter and detect fraudulent applications.

Redress Scotland discretion and decision making

In exceptional circumstances, Redress Scotland may use its discretion as to whether the panel can be satisfied that the applicant was resident in a relevant care setting as a child without the production of supporting documents, or where case workers have been unable to verify the documents submitted.

89. Redress Scotland may also exercise its discretion in relation to the availability of evidence and what, if anything, is known about the particular care setting or arrangements in question. Before exercising its discretion, Redress Scotland may request further information from the applicant and any other relevant person or body. Where the absence of documentation relates to who arranged and paid for the applicant's placement at a private fee-paying boarding school, Redress Scotland must seek further information about this aspect of eligibility.

90. Redress Scotland may also, if it considers it necessary to do so, invite the applicant to provide oral evidence on this aspect of their application in order to be satisfied, in the absence of supporting documentation, that the applicant was resident in a relevant care setting as a child.

91. Once Redress Scotland has made a determination on an application, they will provide the Scottish Ministers with the outcome and a summary of the information taken into account in reaching their determination and the reasons for that determination.

13. Wider redress reporting

92. Under section 99 of the Act, organisations that have made a fair and meaningful contribution to the redress scheme must produce an annual report, known as a 'redress report', detailing their wider redress activities. This report should include details of any steps the contributor has taken to provide emotional support or meaningful apologies to survivors amongst other relevant actions taken by the organisation.

93. This report gives organisations the opportunity to set out all they have done to acknowledge and address their role in the context of historical child abuse, recognising that redress involves taking a range of actions to meaningfully respond to the past, not just making financial payments to survivors.

Requirement to produce a report

94. The Act sets out categories of organisations that will be required to submit a redress report to the Scottish Ministers. These are:

- organisations included on the contributor list in the first nine months of a reporting period; and
- any other organisation requested by the Scottish Ministers to make a report. This could be, for example, an organisation that is named in a redress application that is not on the contributor list.

95. More information on reporting periods and deadlines is provided later in this section.

96. These reports will be collated and published annually by the Scottish Ministers in a combined report.

97. While this is the minimum requirement specified in the Act, some organisations may wish to demonstrate their commitment to addressing the harms of the past by submitting a voluntary redress report to the Scottish Ministers for publication.

Details on the content of the report

98. There are general requirements for what an organisation must include in a redress report. These include:

- information about any support which an organisation has provided for individuals who were abused as children, though these individuals should never be identifiable from a redress report. Some examples of relevant activities include:
 - funding for emotional, psychological or practical support
 - advice and assistance on accessing historical records
 - advice and assistance on tracing and reuniting families
 - activities relating to the acknowledgement of abuse and providing a meaningful apology to survivors
- any other relevant examples of support provided to survivors. For example, some organisations may have held memorial events for survivors of abuse or shared with them details of new policies to prevent the harms of the past from ever happening again.
- if an organisation has not taken any action to provide wider support to survivors, this must also be reported, and reasons why this is the case

99. Scheme contributors will recognise the importance of providing this ongoing support and acknowledgement to survivors in a meaningful way and so will wish to include details of their wider activities beyond those outlined above. It will be for individual organisations to determine what additional material they wish to include within a redress report but this might include, for example, details on what safeguards they have put in place to protect children currently under their care.

Reporting periods and deadlines

100. Under section 99 of the Act, scheme contributors will be required to submit a redress report within two months of the end of the reporting period. The first reporting period begins on 7 December 2021. The reporting period then begins on the same date every successive period of 12 months. The reporting periods will continue until a date is specified in regulations by the Scottish Ministers.

101. As mentioned above, other organisations, such as any non-contributors named in a redress application, may be required to submit a report if directed by Scottish Ministers. This group will have three months to respond to this request, or longer if this is specified in the reporting direction.

Failure to submit a redress report

102. If an organisation does not submit a redress report after they have been directed to do so, either as part of their annual requirement as a scheme contributor or at the request of the Scottish Ministers, then the fact that no report has been received will be published.

103. Scheme contributors may also face being removed from the contributor list if they do not complete a redress report after Scottish Ministers have given them a formal direction to do so. Failing to produce the report would go against the terms of any contribution to the scheme. However, such a removal from the contributor list would be considered only as a last resort if all other attempts to engage with an organisation have failed.

14. Charity Law (Scotland)

104. Section 17 of the Act is designed to overcome potential barriers to charities registered in Scotland being able to contribute to the redress scheme, should they choose to do so.

105. The Act includes provision at section 17 that the making of a financial contribution to the redress scheme will be treated for all purposes as:

- being in furtherance of the charity's charitable purposes and consistent with its constitution;
- providing public benefit;
- not being contrary to the interests of the charity; and
- being within the powers exercisable by the charity trustees of the charity.

106. The charity trustees' duties in terms of the Charities and Trustee Investment (Scotland) Act 2005 to act in the interests of the charity and with due care and diligence still applies to the charity trustees' decision whether to contribute to the scheme. More information is contained in the [Considerations for Charities](#) section of this guidance below. No changes have been made to the current list of charitable purposes or the charity test in the 2005 Act. Below are links to relevant guidance on the Scottish Charity Regulator (OSCR) website.

[Scottish Charity Regulator Guidance for Charity Trustees](#)

[Scottish Charity Regulator Guidance on charitable purposes](#)

107. Section 17 of the Act came into force on 28 June 2021 through the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 (Commencement No. 1) Regulations 2021.

15. Charity Law (England and Wales)

108. A number of charities who may wish to contribute to the redress scheme are registered in England and Wales. We are seeking to remove technical barriers to charities registered in England and Wales from being able to make financial contributions to the redress scheme, should they wish to do so. Through an Order under section 104 of the Scotland Act 1998, we seek to ensure the proper cross-border operation of the provisions of the Act, including in relation to charities.

109. Article 2 of the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 (Consequential Provisions) Order 2021 provides that the making of a financial contribution to the redress scheme will be treated for all purposes as:

- being in furtherance of the charity's charitable purposes and consistent with its constitution;
- providing public benefit;
- not being contrary to the interests of the charity; and
- being within the powers exercisable by the charity trustees of the charity.

110. In this article, "charity" has the meaning given by section 1 of the Charities Act 2011.

111. Charity trustees should take all of the relevant considerations into account before deciding whether or not it would be in the best interests of their charity to contribute to the redress scheme, taking advice where appropriate. The Charity Commission for England and Wales has published guidance for trustees on the principles that trustees should follow to make sound decisions ("It's your decision: charity trustees and decision making (CC27)"). Trustees must also abide by their general trustee duties (see "The essential trustee: what you need to know, what you need to do"). Below are links to relevant guidance from the Charity Commission for England and Wales.

[The Charity Commission for England and Wales' Guidance, "It's your decision: charity trustees and decision making \(CC27\)"](#)

[The Charity Commission for England and Wales' Guidance, "The essential trustee: what you need to know, what you need to do"](#)

16. Charity Law (Northern Ireland)

112. There may also be charities established in Northern Ireland, who wish to make a contribution to the scheme. Section 46 and 47 of the Charities Act (Northern Ireland) 2008 (“The 2008 Act”) give the Charity Commission for Northern Ireland (CCNI) the powers to sanction by order, any action proposed or contemplated in the administration of the charity, where it is considered to be in the best interests of the charity. Section 47 of the 2008 Act provides CCNI with the power to by order, exercise the same power as is exercisable by the Attorney General, to authorise the charity trustees to apply charity property or waive its entitlement to receive property, where the charity trustees have no power to, but where in all the circumstances they regard themselves as being under a moral obligation to do so.
113. Therefore, if charity trustees decide that it would be within the best interest of their charity to make a contribution to the redress scheme or if they regard themselves as being under a moral obligation, but have no power to do so, they may apply to the CCNI for permission to do so, pursuant to sections 46 and 47 of the 2008 Act respectively. CCNI have published guidance on the steps trustees should follow to get authorisation for certain types of transactions which is available through the link below.

[The Charity Commission for Northern Ireland Guidance, “Authorising Transactions: Guidance for charity trustees on getting authorisation for certain types of transactions”](#)

17. Tax implications of contributing to the scheme

114. HM Revenue and Customs considers that any contribution made by a registered UK charity to the redress scheme will be viewed as charitable expenditure, provided the section 104 order is also passed by the UK Parliament.

18. Considerations for Charities

115. Where the potential contributing body is a charity registered with the Scottish Charity Regulator it is important to note that its charity trustees are still required to comply with the charity trustee duties as set out in the Charities and Trustee Investment (Scotland) Act 2005. See the Scottish Charity Regulator guidance and good practice for Charity Trustees available at the link below.

[Scottish Charity Regulator Guidance for Charity Trustees](#)

116. Similarly, where the potential contributing organisation is a charity registered with the Charity Commission for England and Wales, the trustees of the charity still need to comply with the general trustee duties when making a decision about whether to contribute to the Redress Scheme or not. See the Charity Commission for England and Wales guidance: “The essential trustee: what you need to know, what you need to do”) available at the link below.

[The Charity Commission for England and Wales’ Guidance, “The essential trustee: what you need to know, what you need to do”](#)

117. In particular charity trustees must be able to demonstrate that they have acted in the best interests of the charity and with due care and diligence in deciding whether to contribute to the scheme. Trustees are also under a duty to manage their charity’s resources responsibly. This includes taking advice where they need to, and avoiding exposing the charity’s assets, beneficiaries or reputation to undue risk. Trustees must make balanced and adequately informed decisions, thinking about the long term as well as the short term.

118. In coming to the decision charity trustees should take into account:

- What is the charity’s current and long-term financial situation?
 - Have you considered any limitations, contractual or otherwise on how the charity’s funds may be spent? (e.g. are any of the funds restricted³?)
 - Are the available unrestricted⁴ funds sufficient to allow you to make a contribution?
 - If you decide to make a contribution to the scheme by instalment payments over a number of years, have you assessed whether these payments would be achievable now and in future years?
- How would your charity’s current and future beneficiaries and services be affected if you made a contribution?
 - How will the contribution impact on the charity’s cashflow; will the charity still be able to manage this effectively?
 - Would it still be possible to pay staff and other costs?
 - Would there need to be cuts to services now or in the future?
 - Would the contributions impact on any agreements with funders or lenders?
- What are the reputational implications for the charity if it does (or does not) contribute?

119. Charity trustees will have to consider the advantages and disadvantages of participating in the scheme, taking appropriate professional advice where necessary. They will then be in a position to decide whether it is in the charity’s best interests to contribute to the scheme. This decision should be documented, and detail the charity trustees considerations.

³ Restricted funds are funds that can only be used for the particular purposes specified by the donor.

⁴ Unrestricted funds are funds that the charity trustees are able to use for any of the charity’s purposes.

120. If charity trustees, acting with care and due diligence, decide that it is in the interests of their charity to contribute to the redress scheme, section 17 of the Act provides that any contributions made to the scheme from charitable funds will be treated in the manner as described at paragraphs 108 (for those registered in Scotland) and 112 (for those registered in England and Wales) above.

19. Further information

121. This document has been produced to aid organisations in their considerations regarding the scheme, but it is not exhaustive. Individuals or organisations with any additional questions are encouraged to send these by email to the Scottish Government at the following email address: redressandrelations@gov.scot.

Useful links

- Link to The Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 <https://www.legislation.gov.uk/asp/2021/15/contents>
- Gov.scot/redress - including the statutory guidance: [Scotland's Redress Scheme - gov.scot \(www.gov.scot\)](https://www.gov.scot/redress)
- Link to draft Assessment Framework: [Redress For Survivors \(Historical Child Abuse In Care\) \(Scotland\) Act 2021: statutory guidance - assessment framework - gov.scot \(www.gov.scot\)](https://www.gov.scot/redress-for-survivors/historical-child-abuse-in-care/scotland-act-2021-statutory-guidance-assessment-framework)
- Link to the contributor list [Scotland's Redress Scheme: contributor list - gov.scot \(www.gov.scot\)](https://www.gov.scot/redress-scheme-contributor-list)
- Link to the Statement of Principles Regarding Financial Contributions: [The Redress for Survivors \(Historical Child Abuse in Care\) \(Scotland\) Act 2021: Statement of Principles Regarding Financial Contributions - gov.scot \(www.gov.scot\)](https://www.gov.scot/redress-for-survivors/historical-child-abuse-in-care/scotland-act-2021-statement-of-principles-regarding-financial-contributions)