

Amendments to The National Assistance (Assessment of Resources) Regulations 1992 in respect of the Historical Institutional Abuse Redress Board (Northern Ireland)

Equality Impact Assessment

April 2022

Equality Impact Assessment Record

Title of policy/ practice/ strategy/ legislation etc.	Amendments to The National Assistance (Assessment of Resources) Regulations 1992 in respect of the Historical Institutional Abuse Redress Board (Northern Ireland).	
Minister	Minister for Mental Wellbeing and Social Care	
Lead official	Deirdre Henderson, Adult Social Care Charging	
Officials involved in the EQIA	Name	Team
	Neil Grant	Social Care Analytical Unit
Directorate: Division: Team	Social Care and NCS Development Directorate, Improving Standards and Quality Division: Adult Social Care Charging	
Is this new policy or revision to an existing policy?	Revision of existing legislation	

Screening

1. The Scottish Government is mindful of its obligations under the Equality Act 2010 and the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012. Section 149 of the Equality Act 2010 places a general duty (known as the Public Sector Equality Duty (PSED)) on public authorities to have due regard to: eliminating unlawful discrimination, harassment and victimisation; advancing equality of opportunity between people who share a Protected Characteristic and those who do not; and fostering good relations between people who share a Protected Characteristic and those who do not. The Scottish Government recognises that while the amendment may positively impact on one or more of the Protected Characteristic groups, the introduction of the amendment may also have a negative impact on one or more of the Protected Characteristic groups. Where any negative impacts are identified, we aim to mitigate/eliminate these. We are also mindful that the equality duty is not just about negating or mitigating negative impacts, as we also have a positive duty to promote equality. We aim to do this through provisions contained in the Regulations, as amended, or by current support and guidance available.
2. For the purposes of this document the following screening questions were considered.

Will the amendment:

- Eliminate unlawful discrimination, harassment and victimisation
 - Advance equality of opportunity
 - Foster good relations
3. While data is not available for the people applying to the Historical Institutional Abuse Redress Board (Northern Ireland), data is available for the preceding Inquiry into Historical Institutional Abuse in Northern Ireland, including the Acknowledgment Forum component. The equality data gathered from these processes is a guide to the anticipated equality diversity of the applicants expected for the Historical Institutional Abuse Redress Board (Northern Ireland).
 4. From initially assessing the likely impact of this new amendment to an existing policy it would seem likely that the amendment would impact the equality experience for people impacted by historical institutional abuse in Northern Ireland. Evidence has been taken from the equality assessment work already carried out for the development of the Historical Institutional Abuse Redress Scheme (Northern Ireland) which has been set up in Northern Ireland¹².

Amendment Aim

5. The Inquiry into Historical Institutional Abuse in Northern Ireland between 1922 and 1995 concluded on 30 June 2017. The Inquiry was independent from government and had two main components. One was the Acknowledgement Forum, whose members listened to the experiences of those who were children in residential institutions (other than schools) in Northern Ireland between 1922 and 1995. To ensure that payments under the Historical Institutional Abuse Redress Scheme (Northern Ireland) as set up under the Historical Abuse (Northern Ireland) Act 2019 for survivors of historical child abuse in a residential institution in Northern Ireland between 1922 and 1995.
6. Compensation awarded to survivors will be exempt from social care support means tests for those now living in Scotland. This will ensure that survivors of childhood abuse living in residential care can retain the full value of these payments.
7. This contributes to the National Performance Framework outcome to respect, protect and fulfil human rights and enable people to live free from discrimination.
8. The disregard for this compensation payment is expected to be legislated for in January 2022 in England for all means tested benefits.³

Who will it affect?

¹ [Equality Scheme for the Redress Board](#)

² [HIA legislation - Equality Impact Screenings and Rural Impact Assessments](#)

³ [Treatment of Historical Institutional Abuse Payments in Means-Tested Benefits](#)

9. The National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 1992 concern the assessment of the ability of a person to pay for certain accommodation arranged by local authorities, including care homes. They include details of income to be disregarded from the assessment of a resident's liability. An amendment made to specifically include the disregard of payments from the Historical Institutional Abuse Redress Scheme (Northern Ireland) would benefit recipients who are living in or plan to move into care homes, who are subject to financial assessments for care charges.
10. Applications can also be made on behalf of someone who died on or after 28 April 1953 if the applicant is the deceased's spouse, civil partner, co-habiting partner, or a child of the deceased but not a step child.
11. The Historical Institutional Abuse Redress Board (Northern Ireland) was set up to make awards following an inquiry into historic abuse of children under age 18, who lived in any of the 22 residential institutions run by religious, charitable and state organisations across Northern Ireland over a 73 year period between 1922 and 1995, or who was sent from Northern Ireland to Australia as part of the Child Migrants Programme. Applicants can only submit one application to the Historical Institutional Abuse Redress Board but this application can relate to experience in more than one institution.
12. Awards range from £10,000 to £80,000 per claimant. Panels can award £10,000 to individual applicants in advance of a final decision. These payments have been disregarded for purposes of tax, national insurance, means-tested benefits, care home cost support and means-tested legal aid support in Northern Ireland. It has been agreed to be disregarded in England for the purposes of social care support financial assessments.
13. In Scotland, On 31 March 2021, there were 40,632 registered places in adult care homes, of which there were an estimated 29,317 long stay residents in care homes for older people (65 and over)⁴.
14. In relation to people most likely to use adult care homes in Scotland, the age ranges of the people who applied to take part in the Inquiry into Historical Institutional Abuse in Northern Ireland was 34% of people being 65 years old or older, and 31% of people being 55-64 years old. Given the age profile of the 493 applicants to the Inquiry into Historical Institutional Abuse in Northern Ireland, it is expected that a similar age demographic and number will seek compensation from the Historical Institutional Abuse Redress Board (Northern Ireland). However, as the spouse, civil partner, cohabiting partner or children of survivors or victims may also apply, even where their respective relative is

⁴ [Care home census for adults in Scotland Statistics for 2011 to 2021](#)

deceased, the overall age profile of applicants to the Historical Institutional Abuse Redress Board (Northern Ireland) may be more divergent than anticipated.

15. It is likely that a sizeable proportion of applicants to the Historical Institutional Abuse Redress Board will have a physical or mental health impairment, possibly as a result of their abuse in the institutions. In addition, those in need of residential care may be more likely to be have an impairment or long term health condition, than in society generally.
16. The data suggests that more men than women are likely to apply, and that most applicants will be white. Without data on the diversity of the institutions, and their residents, that the Historical Institutional Abuse Redress Board covers in the time frame, it is difficult to know if the diversity of people applying reflects the possible range of applicants, and whether the applicants reflect this.
17. It is also possible that some applicants, or the victims that they are claiming for, will have or had intersectional Protected Characteristics, and may therefore have multiple impacts, which have not been able to be recorded.
18. Taking into account all the above factors, the population size that this amendment might impact would be quite small, given that only 0.7% of the Scottish population (36,655) come from Northern Ireland according to the 2011 Census. It is not clear what percentage of this number would have spent any time in an institutional setting and experienced historic abuse.

What might prevent the desired outcomes being achieved?

19. If legislation within The National Assistance (Assessment of Resources) Regulations 1992 is not amended to ensure payments by the Historical Institutional Abuse Redress Board (Northern Ireland) are disregarded, it may prevent local authorities disregarding any payments made by the Historical Institutional Abuse Redress Board (Northern Ireland), when making financial assessments in relation to an individual's residential social care support charges.

Stage 1: Framing

Summary of findings

20. This legislative change will allow an amendment to the annual Charging for Residential Accommodation Guidance (CRAG) updates that will take effect from April 2022, as agreed with the Scottish Government's CRAG Working Group on 23 September 2021 to disregard this compensation, exempting it from social care support

means tested financial assessments for those wishing to or residing in residential care. This aligns the CRAG with other parts of the UK, and with similar schemes to compensate survivors of historic childhood abuse in institutions.

21. Based upon the analysis of our evidence this amendment will have a positive impact upon people with protected characteristics including age, disability and sex.

Extent/Level of EQIA required

22. As payments by the Historical Institutional Abuse Redress Board (Northern Ireland) were implemented in Northern Ireland the majority of the data is based on the equality impact assessments completed in Northern Ireland:

- [Historical Institutional Abuse Redress Board – Equality Screening Form](#)
- [Equality Scheme for the Redress Board](#)

23. Below is the evidence gathered and assessed in relation to the Protected Characteristics of the Equality Act 2010. Given the small numbers of people potentially impacted in Scotland, and the universal access to the application process, no other impact assessments are planned.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic ⁵	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
Age	<p>No information is available on the age of the applicants to the Historical Institutional Abuse Redress Board. However, 65% of the applicants to the accompanying Historical Institutional Abuse Inquiry were 55 or over, with 34% being 65 years old or older. The age breakdown may also be impacted by spouses and children being able to apply, including where the affected person is now deceased.</p> <p>Over 75% of participants in the Acknowledgement Forum indicated that they had children however the age breakdown of the children to determine if they are dependants i.e. aged under 18 is unknown. It is therefore not known to what extent the Redress Board may benefit individuals with or without dependants.</p> <p>On 31 March 2021, residents in Scottish care homes for older people (65 years old and older) accounted for 91% of residents in all care homes for adults (30,502 out of 33,353).</p>	<p>Historical Institutional Abuse Redress Board - Equality Screening Form</p> <p>Scottish Care Home Census 2021</p>	<p>No specific data on age are available, however, related data is available that has informed our analysis.</p>
Disability	<p>No information is available on the number of disabled people likely to be affected by the amendment. However, 11% (29 men and</p>	<p>Historical Institutional Abuse Redress Board -</p>	<p>No specific data on being disabled are available, however, related data is available that has</p>

⁵ Refer to Definitions of Protected Characteristics document for information on the characteristics

	<p>Acknowledgement Forum was significantly higher than the number of women (166).</p> <p>It is therefore possible that the Redress Board may benefit more men than women.</p>	Screening Form	informed our analysis.
Pregnancy and Maternity	No information is available on the pregnancy or maternity of people likely to be affected by the amendment.		No specific data on the pregnancy and maternity status of applicants is available.
Gender Reassignment	No information is available on the gender reassignment status of people likely to be affected by the amendment.		No specific data on the gender reassignment status of applicants is available.
Sexual Orientation	No information is available on the sexual orientation of people likely to be affected by the amendment.		No specific data on the sexual orientation of applicants is available.
Race	Information pertaining to the racial groups of applicants to the Inquiry into Historical Institutional Abuse was not collated. However, the majority of applicants to the Inquiry were born in Northern Ireland (84%) and as the ethnicity of the NI population is predominantly white (98% in 2011 Census), it is expected that the majority of applicants to the Historical Institutional Abuse Redress Board will be of white ethnicity.	Historical Institutional Abuse Redress Board - Equality Screening Form	No specific data on the race of applicants is available, however, related data is available that has informed our analysis.
Religion or Belief	The Historical Institutional Abuse Inquiry formally investigated 22 institutions. Of these, nine were Roman Catholic Voluntary Homes and one was run by the Church of Ireland. This may indicate that a greater percentage of applicants to the Historical Institutional Abuse Redress Board may be Catholic.	Historical Institutional Abuse Redress Board - Equality Screening Form	No specific data on the religion or beliefs of applicants is available, however, related data is available that has informed our analysis.

	<p>However, information pertaining to the religious belief of applicants to the Inquiry was not collated and therefore it is not known to what extent the Historical Institutional Abuse Redress Board may benefit individuals of differing religious belief.</p>		
<p>Marriage and Civil Partnership (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details)</p>	<p>This Protected Characteristic is not relevant to this assessment.</p>		<p>This Protected Characteristic is not relevant to this assessment.</p>

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	X			<p>This amendment may benefit older age group categories more than younger age group categories as the majority of victims and survivors are likely to be over 55 years old. For many applicants it will vindicate their lived experience of abuse, which may have previously not been believed.</p> <p>However, individuals of all age groups will be able to apply to the Historical Institutional Abuse Redress Board. It is anticipated that the families (including their children) of victims who are now deceased, will be able to apply.</p>
Advancing equality of opportunity	X			<p>The amendment proposed will ensure that people will retain the full value of any payment made via the Historical Institutional Abuse Redress Scheme (Northern Ireland) if subject to charging for residential care and support. This will ensure equality of opportunity with those receiving payments who plan to live in residential care.</p>
Promoting good relations among and between different age groups	X			<p>Although, it is likely to benefit older people more, individuals of all age groups are able to apply to the Historical Institutional Abuse Redress Board. It is anticipated that the families (including their children) of victims who are now deceased, will be able to apply.</p> <p>Younger family members may feel a stronger connection to their loved ones who experienced the abuse, and vindication of their loved ones' lived experience of abuse.</p>

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
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Eliminating unlawful discrimination, harassment and victimisation	X			This amendment may benefit disabled people more than non-disabled people as it is more likely that a person using a care home has an impairment or long term health condition. For many applicants it will vindicate their lived experience of abuse, which may have made them disabled, and which may have previously not been believed.
Advancing equality of opportunity	X			The amendment proposed will ensure that people will retain the full value of any payment made via the Historical Institutional Abuse Redress Scheme if subject to charging for residential care and support. This will ensure equality of opportunity with those receiving payments who plan to live in residential care. As families with a disabled person are more likely to experience poverty, ensuring that the compensation paid to a disabled survivor, or a disabled victim's family is disregarded will enable them to retain more of their income. This may be more pertinent if a person is disabled due to the abuse, and as a result, has been financially disadvantaged in life.
Promoting good relations among and between disabled and non-disabled people	X			Both disabled and non-disabled people will be able to apply to the Historical Institutional Abuse Redress Board. It is anticipated that the families (including their children) of victims who are now deceased, will be able to apply.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	X			This amendment may benefit men more than women as it is likely that more men than women will apply to the Historical Institutional Abuse Redress Board. However, this may reflect the difference in attendees abused in the institutions.
Advancing equality of opportunity	X			It is anticipated that the number of men likely to apply is significantly higher than the number of women. The abuse of boys in institutions is less well discussed in public discourse, and therefore, it may enable men to gain a wider understanding of their abusive childhood.

Promoting good relations between men and women	X			Individuals of both sexes are able to apply to the Historical Institutional Abuse Redress Board.
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Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	The evidence is not available to make any analysis.
Advancing equality of opportunity			X	The evidence is not available to make any analysis.
Promoting good relations			X	The evidence is not available to make any analysis.

Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	The evidence is not available to make any analysis.
Advancing equality of opportunity			X	The evidence is not available to make any analysis.
Promoting good relations			X	The evidence is not available to make any analysis.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	The evidence is not available to make any analysis.
Advancing equality of opportunity			X	The evidence is not available to make any analysis.

Promoting good relations			X	The evidence is not available to make any analysis.
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Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	This policy may benefit individuals of white ethnicity more than other ethnic groups. This lack of racial diversity reflects the ethnicity mix of the community.
Advancing equality of opportunity			X	There is no indication that the equality of opportunity for the dominant white ethnicity is either positive or negative.
Promoting good race relations	X			Individuals of all racial groups will be able to apply to the Historical Institutional Abuse Redress Board.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	Without knowing the number and break down of institutions operating between 1922 and 1995 in Northern Ireland that may have been run by religious or faith based groups, it is difficult to assess if any one style of institution is disproportionately represented in the list of institutions found guilty of abuse.
Advancing equality of opportunity			X	There is no indication that the equality of opportunity for people from any religious or belief group is either positive or negative.
Promoting good relations	X			Compensation awarded by the Historical Institutional Abuse Redress Board may foster a shared sense of justice for victims and survivors, and their families, sharing different religious beliefs. Individuals of all religious or belief based groups will be able to apply to the Historical Institutional Abuse Redress Board.

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and	Positive	Negative	None	Reasons for your decision
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Civil Partnership⁶				
Eliminating unlawful discrimination			X	This Protected Characteristic is not relevant to this assessment.

⁶ In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	Yes - positive
Is the policy directly or indirectly discriminatory under the Equality Act 2010?	No.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

Describing how Equality Impact analysis has shaped the policy making process

No equality issues have been raised that will require changes to the framing of the legislation.

Monitoring and Review

Any monitoring and review of the Historical Institutional Abuse Redress Scheme (Northern Ireland) disregard will be undertaken by SG officials in the Improving Standards and Quality Division of the Social Care and National Care Service Development Directorate.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;

- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for The National Assistance (Assessment of Resources) Regulations 1992 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Dr ST Cuthbert-Kerr

Position: Deputy Director for Improving Standards and Quality Division, Directorate for Social Care and National Care Service Development Directorate

Authorisation date: 27 January 2022



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