

FINANCIAL REDRESS FOR HISTORICAL CHILD ABUSE IN CARE

THE ADVANCE PAYMENT SCHEME: GUIDANCE AND APPLICATION FORM

Introduction

The Deputy First Minister made a statement to Parliament on 23 October 2018, in which he committed the Government to introducing legislation for a financial redress scheme for survivors of abuse in care in Scotland. He also offered an unreserved and heartfelt apology on behalf of the Scottish Government to all those who were abused as children while in care.

He was responding to recommendations from a Review Group, which consulted and engaged widely on redress. It recommended that a redress scheme should be set up by legislation before the end of this Parliamentary term in March 2021. It also recommended that advance payments be made as soon as possible to survivors who may not live long enough to apply to the statutory scheme.

This Advance Payment Scheme responds to that recommendation. Victims and survivors of abuse in care have waited a long time for redress. Prior to legislation being in place, Advance Payments are being made on a discretionary basis to those who have a terminal illness, or who are age 70 or over.

The purpose of this financial redress is to acknowledge and provide tangible recognition of the harm that was done to children in the past who were abused in care by those who were entrusted to look after them.

The Government intends consulting on a statutory financial redress scheme in a public consultation later in 2019.

Further information about the Review Group's recommendations and the Government's response is available at <https://www.gov.scot/policies/child-protection/supporting-child-abuse-survivors/>.

What is included in my application pack?

- This is the application form for an Advance Payment for those who have a terminal illness, or are age 70 or over. It has the following sections:
 - Detailed guidance on eligibility for an Advance Payment;
 - Section 1: Your personal details;
 - Section 2: Confirming you were in care as a child in Scotland;
 - Section 3: Confirming you meet either the terminal illness or age criteria;
 - Section 4: Declarations and important information;
 - Section 5: Your bank account details.
- The Frequently Asked Questions (FAQ) booklet contains further important information which you should read before you begin.
- The Privacy Notice outlines how we will use the information you provide us and how we will keep it safe and secure.

All of the above can be found at <https://www.gov.scot/policies/child-protection/supporting-child-abuse-survivors/> or by contacting the Advance Payment Team (see page 6 for contact details).

There is a separate application form if you are applying on behalf of someone who is incapacitated and you have authority to act on their behalf. Please contact the Advance Payment Team to obtain this.

DETAILED GUIDANCE ON ELIGIBILITY FOR AN ADVANCE PAYMENT

When completing the application form you might want to think beforehand about when and where you are going to do this, and if you would like to have someone that you know and trust with you at the time.

Please be aware that you may find it upsetting to read some of the information contained in this guidance section. If you find you need immediate support, you can contact the Samaritans on 116 123 or Breathing Space on 0800 83 85 87. Further details on this and other sources of support are included on the back page of the FAQ booklet.

You can apply for an Advance Payment if the following statements apply to you:

- I was in care as a child in Scotland, and
- I suffered abuse in care in Scotland before December 2004

AND

- I have a terminal illness; **OR**
- I am age 70 or over.

Further detail about each of these statements is provided below. It is important you read these, as they will help you understand whether you may be eligible to apply for an Advance Payment, and what you will need to do so.

I was in care as a child and was abused in care in Scotland before December 2004

For the purpose of Advance Payments, the following settings will be eligible: children's homes; foster care, secure care units including List D schools; Young Offenders' Institutions and Borstals; places provided for Boarded Out children in the Highlands and Islands; state, private and independent boarding schools (see below); state-funded school hostels; healthcare establishments providing long-term care (see below); any similar establishments intended to provide children with long-term residential care.

There are two key clarifications to note. In relation to boarding schools, residential pupils at boarding schools will not be eligible if their parents chose that place for their children's education. In relation to long-term healthcare establishments, children who spent time in establishments whose primary purpose was medical or surgical treatment – primarily general or local hospitals – will not be eligible. Children who stayed in all other healthcare establishments, where the function was primarily long-term care and not treatment, are eligible.

In Section 2 of this application form you will be asked to name one place where you were in care and suffered abuse. You will also be asked about the approximate dates you were in care there, or your age when you were in care.

Section 2 also asks you to provide a supporting document that shows you were in care in Scotland as a child, and you will need to include this along with your completed application form. This does not need to be for the same place you suffered abuse if you do not have a document from there. Further information about the types of document which might show you were in care, and about other organisations that might be able to help you with this, is given in the FAQ booklet.

We are aware that some applicants may have difficulties obtaining relevant documents. We will be as flexible as we can, however some form of written document which shows you were in care will be required to ensure the scheme is fair and credible. We will be unable to progress your application if a supporting document is not provided. We will need to be satisfied that the document you provide is sufficient to show that you were in care in Scotland as a child.

For the purpose of the Advance Payment Scheme we are defining 'historical' child abuse as that which took place before December 2004.

I suffered abuse while I was in care in Scotland

Your eligibility for an Advance Payment does not rely on you describing your experience of abuse in care, or providing evidence of abuse, as part of the application for an Advance Payment. In Section 4 you will be asked to sign a declaration that you were abused while in care as a child in Scotland before December 2004. This is because we recognise that although some survivors may have written evidence that they were abused, most will not. You may be eligible if you experienced abuse while in care in Scotland which was either physical, sexual, emotional, or which took the form of neglect. You may have suffered one or more of these types of abuse.

We recognise that some people may feel uncertain if their experiences would be considered abuse. We have therefore provided a description of each of these types of abuse below to help you consider if you should apply. These descriptions have been taken from the National Guidance for Child Protection in Scotland (2014). For the purpose of Advance Payments, physical abuse will also include extreme or excessive corporal punishment.

Please note that you might find the descriptions below upsetting

Emotional abuse is persistent emotional neglect or ill treatment that has severe and persistent adverse effects on a child's emotional development. It may involve conveying to a child that they are worthless or unloved, inadequate or valued only insofar as they meet the needs of another person. It may involve the imposition of age - or developmentally - inappropriate expectations on a child. It may involve causing children to feel frightened or in danger, or exploiting or corrupting children. Some level of emotional abuse is present in all types of ill treatment of a child; it can also occur independently of other forms of abuse.

Physical abuse is the causing of physical harm to a child or young person. Physical abuse may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning or suffocating. Physical harm may also be caused when a carer feigns the symptoms of, or deliberately causes, ill-health to a child they are looking after through fabricated or induced illness.

Sexual abuse is any act that involves the child in any activity for the sexual gratification of another person, whether or not it is claimed that the child either consented or assented. Sexual abuse involves forcing or enticing a child to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative or non-penetrative acts. They may include non-contact activities, such as involving children in looking at (or in the production of) indecent images, or in watching sexual activities, using sexual language towards a child or encouraging children to behave in sexually inappropriate ways.

Neglect is the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. It may involve a carer failing to provide adequate food, shelter and clothing, to protect a child from physical harm or danger, or to ensure access to appropriate medical care or treatment. It may also include neglect of, or failure to respond to, a child's basic emotional needs. Neglect may also result in the child being diagnosed as suffering from "non-organic failure to thrive", where they have significantly failed to reach normal weight and growth or development milestones and where physical and genetic reasons have been medically eliminated. In its extreme form children can be at serious risk from the effects of malnutrition, lack of nurturing and stimulation.

Source: National Guidance for Child Protection in Scotland (2014)

<https://www.gov.scot/publications/national-guidance-child-protection-scotland/>

I have a terminal illness

If you have a terminal illness this will be a sensitive time for you. We have tried to keep the process of applying for an Advance Payment as straightforward as possible.

In Section 3 we ask you to choose a healthcare professional who is providing your medical care. This might be your GP, or a hospital or hospice consultant, or a specialist or senior nurse. With your agreement, we will contact them on your behalf and ask them to confirm

to us that you have a terminal illness. They will be able to do this from your medical records and will not need to see you or carry out an assessment. Further information about this is provided in Section 3 of this application form and the FAQ booklet.

We will send your chosen healthcare professional a simple medical form which asks them the following question about your health status:

“Does the patient have an advanced, progressive and incurable condition, which may be associated with other conditions and which could include severe frailty, with indicators of deterioration, where death will be an inevitable consequence of that condition?”

If you are unsure whether you have a terminal illness you may want to speak to your healthcare professional beforehand. The Advance Payment Team is unable to give a medical opinion, as they are not qualified to do so.

I am age 70 or over

You can apply for an Advance Payment if you are age 70 or over on the date you sign your completed application form. The Advance Payment Scheme is expected to remain open until the statutory financial redress scheme opens for applications, including for those who turn 70 years old before then. You will need to provide proof of your date of birth.

Getting in touch and returning your application form

The Scottish Government has set up an Advance Payment Team to help you understand the application process, to refer you to other sources of help and support if needed, and to inform you of the outcome. The Advance Payment Team in Scottish Government will be happy to help you. You can get in touch by:

Telephone: Call free on **0808 169 9740**

(Monday to Thursday between 10am and 4pm).

Email: AdvancePaymentTeam@gov.scot

Post: Freepost ADVANCE PAYMENT

Completed application forms and supporting documents should be posted using the pre-paid envelope provided (if you requested an application pack by post) or sent to the Freepost address above (if you downloaded an application pack from the website). If you are applying from overseas please contact the Advance Payment Team for a postal address.

Informing you of the decision

Decisions on individual applications will be made by the Advance Payment Team and you will receive a letter explaining the decision. This letter will also include information about how to request a review, if you believe your application has not been considered in line with the approach outlined in this application. A request for a review should be made within one month of receiving the letter.

Please be aware that if we are unable to make a payment, this does not mean that we do not believe you were in care or suffered abuse, simply that you do not have, or yet have, sufficient documentary evidence of it for the purposes of this application. Information on who can help you access a record is included in the FAQ booklet. If you find a document which shows you were in care after a decision has been made about your application, please contact the Advance Payment Team, who will be able to discuss this with you.

We realise that a decision not to make an Advance Payment may cause frustration and upset. The Government intends consulting on how the statutory financial redress scheme could consider a wider range of assessment approaches than is possible for Advance Payments. You may be eligible to apply to that scheme once it is open.

If you have a complaint about the way your application has been handled, the procedure for taking this forward is set out in the FAQ Booklet.

Section 1: Your personal details

Full name

Current address

.....

Postcode Country

Date of birth __ / __ / ____

Telephone

Email

Please tick a box below to let us know how you would prefer we get in touch with you about your application.

by telephone

by email

by letter

Guidance Notes: We will get in touch with you to acknowledge receipt of your application form and update you on progress. We might also need to contact you in relation to the documentation you have provided to support your application, such as the documents in relation to your identity, your age, or your supporting document which shows you were in care.

Section 1.2 Confirming your identity

You will need to provide current ID to confirm your identity. Two options are given below. Please choose one based on the type of ID you have available, and tick the relevant box(es) to show us which documents you have included with your completed application form.

Please send us either:

your passport (original not copy) OR your driving licence (original not copy)

If neither of these are available, please provide either

- an original letter from either an official Government source (for example a P45, P60, a Pension Statement, HMRC or DWP correspondence, council tax statement)

- original letter from the NHS (for example a letter from your GP or hospital)

Please note that you will also be required to provide a statement for the bank account you are providing details for in Section 5 and this will also be used for the purpose of confirming your identity.

Previous Names

We understand that some people now have a different name from the one they were known as while in care as a child. If this applies to you, we need to be able to link your current identity to your name as a child in care. We will only need to do this if the name on the document you provide which shows you were in care is different from your current identity.

If relevant, please indicate any previous name by which you were known while in care:

.....

Please tick the box below to confirm you have provided a supporting document (eg marriage or adoption certificate) which shows your name change with your completed application form

Guidance Notes: We will need the originals of the documents. These will be returned to you using the Royal Mail signed-for-service. If you do not want to send originals, you can use the Post Office Document Verification Service, details of which are provided in the FAQ booklet. If you are unable to provide any of the above forms of ID, please contact the Advance Payment Team discuss other options.

Section 2: Confirmation that you were in care as a child in Scotland

We will need some information about your time in care.

Please give an indication of the dates you were in care. Or, if you find it easier, please give the approximate age you were when you were in care. We understand you may not remember the fine detail.

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.....

Please tell us the name and location of one place where you were abused in care. Please also tell us the dates you were there, if you can remember. If you were with a foster family when the abuse took place, and know the name of the local authority that placed you there, please tell us.

.....

.....

You will also need to provide a supporting document that shows you were in care as a child in Scotland. For information on what we mean by 'in care' and care settings please see the detailed guidance at the start of this application form. For further detail on the types of document is provided in the FAQ booklet.

Please tick this box to confirm that you have provided a supporting document which shows that you were in care as a child in Scotland []

Section 3: On which grounds are you applying - terminal illness or age?

Please indicate which of these applies to you:

[] I am applying because I have a terminal illness – please complete Section 3.1 only

[] I am applying because I am age 70 or over – please complete Section 3.2 only

Section 3.1: Applying on grounds of terminal illness

Guidance Notes

We need you to choose a clinical healthcare professional who is involved with your medical care. We will contact them on your behalf to ask them to confirm that you have a terminal illness. They will be able to do this from your medical records and will not need to see you or carry out an assessment.

We require some of your personal details along with your signature to confirm that you are content for us to contact them and ask for this information. Your CHI number, which is your identification number on NHS health records, can be found on any NHS letters you have received regarding your health.

We will ask your chosen healthcare professional to complete a simple medical form to confirm terminal illness. The form will indicate that you are applying for financial redress for historical child abuse in care. It will not give any details about your application or personal situation. You do not need to inform your chosen healthcare professional beforehand. If you wish, you can discuss with your chosen healthcare professional what and how any sensitive information is recorded in your medical notes and shared with others. Further details on applying due to terminal illness can be found in the FAQ booklet.

If you agree to us contacting your chosen clinical healthcare professional to confirm that you have terminal illness, for the purpose of your application for an Advance Payment, **please provide your personal details and signature below.**

Name

Date of birth

CHI number

Signature

The types of healthcare professionals we can ask to confirm your terminal illness are shown below. **Please tick** one box below to confirm which type of healthcare professional you would like us to contact.

- a General Practitioner (GP)
- a hospital or hospice consultant or specialist
- a specialist nurse (e.g. a MacMillan Nurse or Motor Neurone Disease Nurse)
- a District Nurse or a Senior General Practice Nurse

Please provide the contact details for your chosen healthcare professional below.

Name of healthcare professional

.....

Name of practice/place of work (eg hospital, health board, hospice)

.....

Address

Postcode

Email address

Phone number

Section 3.2: Applying on age grounds

You will need to provide evidence that you are age 70 or over. If you are providing a passport or driving licence as confirmation of your identity in Section 1 then we do not need any further supporting documentation in this section because these forms of ID show your date of birth.

However, if you have provided official Government or NHS correspondence to confirm your identity in Section 1, you will also need to provide your birth certificate to confirm your age. If this is the case, **please tick** the box below.

[] I confirm that I have included my original birth certificate (or an extract of my birth certificate) with my completed application form.

Guidance Note:

There is information in the FAQ Booklet about how to obtain an extract of your birth certificate if you do not have one.

Section 4: Declaration of abuse and important information

- I confirm that I was abused before December 2004 while I was in care as a child in Scotland, according to the detailed guidance at the start of this application form.
- I confirm that the abuse I suffered was either physical, sexual, emotional, or it took the form of neglect, according to the detailed guidance at the start of this application form.
- I confirm that the details and information I have given in this application form are true and accurate to the best of my knowledge and belief.
- I confirm that any documents I have provided in support of my application are genuine and any copy is a true copy of the original. I understand that if I provide a document which is not genuine, I may be subject to court proceedings including prosecution for an offence.
- I understand that if I give false or misleading information in support of my application, and/or make a fraudulent application, I may be subject to court proceedings including prosecution for an offence.
- I confirm I have read and understood the Privacy Notice for Advance Payment applications which sets out how the information I have provided will be used and stored according to data protection laws.

Applicant's signature.....

Print name

Date

Section 5: Your bank account details

Guidance Note: If you are eligible for an Advance Payment, this will be processed by bank transfer into your account. The payment cannot be paid into anyone else's bank account.

Name of bank

Address

.....

Town/City

Postcode

Account holder's name

Sort Code

Account Number

Account holder's signature

You will need to provide a bank/building society/post office statement to confirm that the name on the account matches the name and address of the applicant. You may already be providing this to confirm your identity in Section 1 if you do not have a passport or driving licence.

If you have not already provided this for Section 1, **please tick** this box to confirm that you have included a statement for the above account, dated within the last 12 months.

[]

Space for any comments or feedback

You do NOT need to write anything here if you do not wish to. If you do want to tell us anything else, please do so here. Please be assured that anything you write here will NOT be taken into account in determining your eligibility for an Advance Payment.

Please note that if you name anyone who has abused children we will need to disclose their identity to Police Scotland. This is so that Police Scotland can assess any risk that person may currently pose to children and/or to vulnerable adults. That risk needs to be assessed but it is not for us to assess it. The Privacy Notice provides more details about this.

We are keen to understand how we can improve the process of applying for an Advance Payment. If you wish, please provide any feedback here. Your views will help us understand what is working well and what could be better for applicants. Please remember this is optional.