

FINANCIAL REDRESS FOR HISTORICAL CHILD ABUSE IN CARE

THE ADVANCE PAYMENT SCHEME: FREQUENTLY ASKED QUESTIONS (FAQ) BOOKLET

Introduction

We know you will have many questions about the Advance Payment Scheme and we have provided information here as well as guidance in the application form itself. We will update this document as new questions come to our attention. Please check online for the most recent version or ask the Advance Payment Team. If you have further questions or need help, please contact the Advance Payment Team.

Telephone: call free of charge on 0808 169 9740, Monday to Thursday from 10am to 4pm.

Alternatively we have an automated phone service if you want to request an application pack but do not need to speak to someone. If this is the case, please call free of charge on 0808 196 1436.

Email: AdvancePaymentTeam@gov.scot

Write: Freepost ADVANCE PAYMENT (no stamp or address or postcode is required). If applying from overseas please contact the Advance Payment Team for a postal address. If you have no access to the internet please contact the Advance Payment Team who will be happy to print and send information.

All information is available at <https://www.gov.scot/policies/child-protection/supporting-child-abuse-survivors/>.

Contents

To help you find the information you need, we have organised this booklet as follows:

1. the application process;
2. what to expect if you call the Advance Payment Team;
3. questions about the payment itself;
4. informing you of the decision, appeals and complaints;
5. wider eligibility questions;
6. about supporting documents to show you were in care;
7. about the process if you have a terminal illness;
8. how the information you provide will be used;
9. other questions;
10. sources of support and advice.

Contact details for organisations that can provide immediate help if you find reading this distressing, or more general advice and support, are listed on the back page of this booklet.

1. THE APPLICATION PROCESS

What information is in the application pack?

The application pack includes the application form and detailed guidance, this FAQ booklet, the Privacy Notice, and a pre-paid envelope for you to return your completed form and supporting documents. The pack will be sent to you in a plain envelope.

Who can help me apply?

We have made the application process as straightforward as possible, but we know you may need help to complete it. We have put as much information as we can in the application pack, but if you wish to speak to someone, the Advance Payment Team is happy to answer any further questions you may have.

Will you pay for me to get legal advice to complete the form?

No. We have made the application form as straightforward as we can. You may of course seek your own independent legal advice if you want to but you should be aware that we are not able to pay any legal costs for Advance Payment applications.

Can I apply for an Advance Payment on behalf of someone else?

You can apply on behalf of someone who is incapacitated provided you have authority to act on their behalf such as holding a Power of Attorney, or you have been appointed guardian by a court. There is a separate application form for this purpose which can be obtained by contacting the Advance Payment Team directly. If the applicant is unable to self-declare the abuse that happened you may be required to submit some additional evidence to this effect.

I don't want to send my original documents in the post – what can I do?

The Post Office provide a service that can certify that copies of documents are a true likeness of the original. They will check up to three documents (including passport, driving licence, bank statement). There is a fee of £10.50 for this service. More information can be found on the Post Office website <https://www.postoffice.co.uk/document-certification-service> or by asking in your local post office.

2. WHAT TO EXPECT IF YOU CALL THE ADVANCE PAYMENT TEAM

When I call the Advance Payment Team what information will I need to give?

If you would like us to send you an application pack, we will ask for your name and address. If you give us your email address we can also send you the pack electronically. There is also an automated phone number for requesting a pack. If you have a question about the Advance Payment Scheme and do not wish to give your name on the phone that is fine.

Will I need to talk about my experience of abuse in care as a child?

No. You will not be asked any questions about the abuse you suffered in care, or of the impact it has had on you. You will not be asked anything about this if you call the Team. You will be asked to sign a declaration in the application form and to provide a supporting document that shows you were in care as a child in Scotland before December 2004. At the end of the application form there is space for any comments or feedback. This is optional. If you chose to say anything here about the abuse you suffered you should be aware that it will not be taken into account in determining your eligibility for an Advance Payment.

If I need to call a few times will I have to keep repeating myself?

After you have submitted an application form, we will open a personal file for you and record any queries you may have. We will need to do this to process your application. It will also make it easier for us to help you quickly if you call us, and it will save you having to repeat yourself. Once you have a personal file, when you call we will ask your name, address, and date of birth to make sure we are talking to the right person and to keep your details secure.

If you call before you have submitted an application form, we will ask if you would like us to keep a brief record of the discussion in case you need to call again. We would only do this if you think it will be helpful, for example if you think you might call a few times.

I have tried to phone but it is going straight to an answer machine. Why can't I speak to someone?

If your call is going to answering machine during the phone line opening hours this means that each member of the Advance Payment Team is busy on another call. It is not because we have stopped answering calls or that your call is not important. If you leave a message we will get back to you as soon as we possibly can.

Will I have an opportunity to talk about what happened to me?

You do not need to provide information about the abuse you suffered as part of the Advance Payment application process. If you would like to speak about your experience you may want to get in touch with the **National Confidential Forum (NCF)** or the **Scottish Child Abuse Inquiry (SCAI)**.

The NCF was set up by the Scottish Government to listen to, and acknowledge, people's childhood experiences of institutional care in Scotland. You can find out more at <https://www.nationalconfidentialforum.org.uk/>.

The Scottish Child Abuse Inquiry is investigating the abuse of children in care in Scotland. You can find out how to contact the Inquiry and what will be involved if you want to give evidence to the Inquiry at <https://www.childabuseinquiry.scot/>.

Can the Advance Payment Team provide counselling or other support?

The Advance Payment Team are not qualified to do this, but they can give you details of appropriate organisations who will be able to help. We have agreed that Future Pathways The Advance Payment Scheme FAQ Booklet

will prioritise applicants for Advance Payments. Please see the section on Support and Advice at the end of this document.

3. QUESTIONS ABOUT THE PAYMENT

How much is the Advance Payment?

The level of the Advance Payment has been set at £10,000 (ten thousand pounds). In the Advance Payment Scheme, everyone whose application is approved will receive the same amount.

How quickly will I receive the payment after my application has been approved?

Once you receive a letter informing you your application has been approved, the payment will be transferred into your bank account. This normally takes between 3 and 5 working days.

Why is everyone getting the same amount?

We know that everyone's experience of abuse in care is different, and that the impact it has had on you will also be different. The Advance Payment Scheme has been designed to be as straightforward as possible to ensure payments can quickly reach those survivors who may not live long enough to apply to the statutory redress scheme. Consequently, it is not possible to make an individual assessment of the impact of abuse. We will consult on the issue of impact in the consultation later in 2019 on the design of the statutory redress scheme.

Will an Advance Payment affect my benefits?

No. DWP have advised that, for benefits purposes, Advance Payments will be treated in the same way as payments for a personal injury. This means the money will not be taken into account in assessing your entitlement to means-tested benefits. However, you must let DWP know that you have received an Advance Payment so that they know not to take it into account. Please note that for many benefits this exemption lasts for one year only.

Will an Advance Payment be subject to taxation?

We are in the final stage of discussions with Her Majesty's Revenue & Customs (HMRC) to clarify the position in relation to tax exemptions so that an Advance Payment would not be taken into account for the purpose of calculating your income tax or capital gains tax. We did not want to delay opening Advance Payments until the position is confirmed. We will update this FAQ as soon as possible.

Will an Advance Payment be taken into account for means tested social care?

Scottish Government is currently working with COSLA to ensure that these payments will not be taken into account in the means testing of a person's long term social care. For residential care, this will require legislative change that it is hoped will be in place by the summer. If you think this might affect you, you should contact the Advance Payment Team to discuss.

How will an Advance Payment be made?

Payment will be processed by bank transfer into your account. The payment cannot be paid into anyone else's bank account. Please note the name on the bank account needs to match the name of the applicant for an Advance Payment.

Please contact the Advance Payment Team if you do not have a bank account or Post Office account that accepts bank transfers. You might want to seek independent financial advice about how to manage your payment. Details of organisations that can help advise you are provided at the end of this booklet.

What if the applicant dies after they have submitted their application form?

We know it is possible that some terminally ill applicants will die while their application is being processed, however speedily we do this. We will continue to process the application and as long as we have all the information necessary to complete our assessment we will make the payment. Unfortunately we will not be able to process the application or make the payment if essential information or documentary evidence is missing.

Who is paying for the Advance Payment Scheme?

The Scottish Government is meeting the cost of all Advance Payments.

4. INFORMING ME OF THE DECISION, REVIEWS AND COMPLAINTS

How will I know if my application has been approved?

We will inform you of the outcome of your application by letter. This will either be sent to you by post or by email, depending on the preference you selected in Section 1 of the application form.

If we are unable to proceed to make a payment, this does not mean that we do not believe you were in care or that you suffered abuse. It will either be because you did not meet one of the eligibility criteria, or because you were unable to provide sufficient supporting documentation. We know this may cause frustration and upset. The Government intends consulting on a wider range of assessment approaches for the statutory financial redress scheme than is possible for Advance Payments.

How long will you take to tell me if my application has been approved?

We will deal with your application as quickly as possible. We will let you know when we have received your completed form, and we will be in touch if there are any questions we have about the information you have provided or the supporting documents you included.

Please be aware that if we have a significant number of applications to process in the early weeks/months of opening the Advance Payment Scheme, we will prioritise applications from those who are applying because they have a terminal illness.

If my application is declined can I ask for the decision to be reviewed?

Yes, the letter informing you of the decision will include information about how to request a review if you think it was not properly dealt with. A request for a review should be made within one month of receiving the letter informing you of the decision. The review will be carried out by individuals who were not involved in making the initial decision.

What do I do if I want to complain about how my application has been handled?

If you wish to make a complaint you can write to: Scottish Government, Complaints, 1E.10 St Andrew's House, Edinburgh, EH1 3DG or email sgcomplaints@gov.scot.

Further information on the complaint process can be found at <https://www.gov.scot/about/contact-information/make-a-complaint/>.

What will happen if I give false or misleading information in my application?

If you knowingly give false or misleading information, you may be subject to court proceedings including prosecution for an offence.

5. WIDER ELIGIBILITY QUESTIONS

Please also refer to the application form for detailed guidance on eligibility.

Can the next of kin of a survivor who has died apply for an Advance Payment?

No. Applications for an Advance Payment cannot be made by representatives or next of kin of a deceased victim or survivor. In designing the statutory redress scheme, consideration will be given to the issue of next of kin, as recommended by the InterAction Action Plan Review Group.

Can I apply if I have previously received compensation for the abuse I suffered in care?

Yes, you can still apply. However, it is your responsibility to check the terms and conditions attached to your previous payment or compensation award. This may have been as a result of civil action, or an out-of-court payment from a care provider.

What will happen if I have previously received an award from the Criminal Injuries Compensation Authority?

If you have already received an award of compensation from the Criminal Injuries Compensation Authority (CICA), the award you received under that scheme may be reduced if you then receive an Advance Payment which relates to the same injury. If you are in this position, it is **your** responsibility to provide relevant information to the Criminal Injuries Compensation Authority.

Under the terms of the Criminal Injuries Compensation Scheme, CICA may withhold or reduce an award where an applicant has, in their view, received a similar payment from elsewhere in respect of the same injury.

For future applications, where CICA receive an application that looks eligible under the Advance Payment Scheme, they will direct the applicant to us and defer the case pending the outcome. If the applicant was ineligible for an Advance Payment then a claim could still be made to CICA, although the CICA guidelines require a police report to support any claim. If you do receive an Advance Payment, and are also eligible for an award from CICA in future, CICA will take account of the Advance Payment.

Can I apply for an Advance Payment if I am in the process of claiming compensation through the civil courts?

Yes. You can still apply for an Advance Payment if you are in the process of pursuing civil action. You should speak to the solicitor supporting you to take civil action about any impact an Advance Payment may have on that process or the sum of money which may be awarded through the civil action.

I am a child migrant and have applied to the UK Government's payment scheme for former British child migrants. Can I also apply for an Advance Payment?

You can apply to the Scottish Government for an Advance Payment if you suffered abuse as a child while in care in Scotland before December 2004.

I suffered abuse in care in another part of the UK but my care had been arranged in Scotland. Am I eligible for an Advance Payment?

You can apply to the Scottish Government for an Advance Payment if you suffered abuse while in care in Scotland before December 2004.

6. DOCUMENTS TO SHOW YOU WERE IN CARE

What type of supporting document are you looking for?

There are lots of different kinds of documents which might show that you were in care as a child. This could include records held by your care provider such as an entry in an admission/discharge register or a log book, or you might have a baptism record which will give your address at the time. The local authority which placed you in care may also hold records, including social work and education files.

We know that some people may be unsure about what they can provide so we have given some specific examples below.

Can I use the following as a supporting document?

I have already given a statement to the Scottish Child Abuse Inquiry	No, it is really important that you do NOT provide us with your written statement or any other evidence or documents which you have provided to the Inquiry. The Inquiry Chair has issued a General Restriction Order which prevents you sharing your statement with us.
I have been to the National Confidential Forum (NCF)	Yes, with your consent, we can speak to the NCF and they will confirm whether you have told them about your experience of abuse in care. Please speak to the Advance Payment Team about this.
I am receiving support from Future Pathways	No, Future Pathways does not require you to provide evidence of being in care to register and receive support so that is insufficient for our purposes.
I am a member of a survivor support organisation	No, we are sorry but being a member of a survivor support organisation is insufficient to show you were in care as a child.
I have photographs from when I was in care	This may be sufficient depending on the source of the photographs. This would require to be assessed during the application process.
I have letters sent to me in care	This will depend on whether the letters contain sufficient information, such as your name, relevant dates and the address of the care setting.
I disclosed my abuse to someone else	If there is a formal record which shows you disclosed your abuse to someone else this may be sufficient. For example if you disclosed to your GP there may be an entry in your medical records. You can make a subject access request to obtain this.

Our preference is that the supporting document you provide indicates the date or time period you were in care, although we recognise that some documents may not show this. If it is not clear from the document and the other information provided in the application form, we may need to carry out checks with the source of the document.

I do not have a supporting document which shows I was in care. How do I find one?

You can email or write to an organisation that was involved in your care (for example this could be a local authority or a care provider) and make a subject access request for any information they may hold about you. This is your legal right under data protection law.

You can get further information and a template letter here <https://ico.org.uk/your-data-matters/your-right-of-access/>.

The organisation you are dealing with must respond without undue delay and at the latest within one month of receipt. They are required to provide a copy of your personal data free of charge. The organisation can extend the time to respond by a further two months if the request is complex but they must let you know within one month of receiving your request and explain why.

If you need some help, the Advance Payment Team can refer you to an organisation that helps people trace their records, eg relating to church or health records. They will be able to advise you on your specific circumstances and, with your consent, contact others on your behalf. Contact details for two organisations that can help in this way are provided below.

- **Future Pathways:** Telephone 0808 164 2005 or email registration@future-pathways.co.uk
- **Wellbeing Scotland:** Telephone 01324 630 100 or email info@wellbeingscotland.org

What happens if I am unable to find a document which shows I was in care as a child in Scotland?

We recognise that some applicants will have difficulties obtaining records and that records can be missing or lost. We anticipate that the statutory redress scheme will offer the opportunity to assess applications in a wider variety of ways. For the purpose of the Advance Payment Scheme we will do all we can to help you find sufficient evidence to support your application.

I have no record of being in care in the setting where I experienced abuse. Can I provide a document which shows I was in care elsewhere?

Yes, you can provide any document that shows you were in care. It does not have to be from the same place that you suffered abuse if you do not have one from there.

What if I am under 18 and in care?

Every child has the right to be protected from abuse, harm or exploitation. If you have been a victim or witness of crime and are under 18, you might feel worried, angry, or alone. Everyone is affected by crime in their own way, and different crimes can affect people differently too. You can get support whether or not you reported the abuse to the police.

You can get in touch with **Childline** on **0800 1111**. The helpline is open 24 hours a day, 7 days a week, is free and it will not show up on any bills. They will listen to you and help you work out what to do next. You can also chat with them online.

If you are over 12 you can also contact **Victim Support Scotland** on **0800 160 1985**. This number is also free to call and they can talk to you about any worries you have and how they can help.

7. ABOUT THE PROCESS IF YOU HAVE A TERMINAL ILLNESS

What is a terminal illness?

A terminal illness is regarded as a progressive disease, which can reasonably be expected to cause an individual's death. Terminal illness can be a result of a wide range of different diseases. A person may have a single disease or a number of conditions at any one time. This could include cancer; organ failure (respiratory disease, heart and vascular diseases, kidney disease, liver disease); neurological diseases (Parkinson's disease, Motor Neurone Disease, Multiple Sclerosis); stroke; frailty; dementia; and rare conditions or diseases. This list does not cover every possible condition.

How are you defining terminal illness for the purpose of Advance Payments?

The medical form that we will send to your chosen healthcare professional asks the following question:

“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?”

Is this the same definition that Department of Work and Pensions (DWP) uses for benefit purposes?

No, our definition is aligned to the one that has been agreed in the Social Security (Scotland) Act 2018 and does not include estimating whether a person is likely to die in the next 6 months, as this can be difficult to predict.

If I have already had a form confirming terminal illness completed for DWP purposes can that be used for an Advance Payment?

Yes, your healthcare professional should be able to confirm you have a terminal illness for the purpose of an Advance Payment if they have already completed the form for DWP. We ask that question on the medical form.

I am very ill but I am not sure if I have a terminal illness. How do I find out?

You may find it helpful to speak to one of the healthcare professionals involved in your care about this before applying. They will be able to advise you. The Advance Payment Team is unable to provide a medical opinion. If your healthcare professional would like to speak to the Advance Payment Team to ask any questions then please give them the phone number or email address that can be found at the start of this booklet.

Do I need to get a letter from my GP to confirm I have a terminal illness?

No. You only need to provide the Advance Payment Team with the contact details for a healthcare professional involved in your care. We will ask this person to complete a simple medical form on your behalf to confirm if you have a terminal illness. You could choose your GP, or a hospital or hospice consultation or specialist, a specialist nurse (eg a MacMillan Nurse or Motor Neurone Disease Nurse), a District Nurse or a Senior General Practice Nurse.

Why can I not give the form directly to my chosen healthcare professional?

Your healthcare professional has to follow a number of guidelines to make sure that they meet their legal, ethical and professional requirements. This includes how they receive and process forms asking about a patient's sensitive health information. To ensure that your information is kept safe and to minimise your stress where possible, we will send the form on your behalf. This also means that you do not have to wait until you have an appointment to see or talk to a healthcare professional to get your form completed.

I am uncomfortable about people involved in my healthcare knowing that I experienced abuse.

We understand that this is a difficult and sensitive issue for some people. The medical form that we issue to healthcare professionals only indicates that you are applying for financial redress because of historical child abuse in care. It gives no further details about your personal situation. The staff completing the form will be concerned only with your care and your best interests.

All NHS staff have an ethical, legal and professional duty to keep patient information confidential. You can find out more about the standards of behaviour that are expected from NHS Scotland staff to protect patient confidentiality at

<http://www.wdhscp.org.uk/media/1256/revised-code-of-confidentiality-final.pdf>.

I do not want my relatives to find out through my medical records that I have disclosed abuse or applied for redress.

You can discuss with your chosen healthcare professional what and how any sensitive information is recorded in your notes. You can advise them that you do not wish anyone to know of any disclosures or of your application for redress after your death. You can also ask that any relevant sections of your medical notes are redacted (where the information is removed or blacked out) before they are released to those who are legally allowed to ask for the records, such as your next of kin.

8. HOW THE INFORMATION YOU PROVIDE WILL BE USED

How will my information be managed?

The information that you provide will be used for the purpose of processing your application. It will be managed carefully and in line with relevant privacy and information

handling laws and regulations, including data protection law. Please see the Privacy Notice for details about how your information will be used and how it will be kept secure.

Will you carry out any checks on the records I provide?

Yes. We may check the supporting document that you send us which shows you were in care with the source organisation, if they still exist. We would do this to check it is a genuine copy, and to ensure the Advance Payment Scheme is robust and credible. We will not share any other information with the source organisation in relation to your application.

Will the information on my form be shared with the care provider where I experienced abuse?

We will need to carry out some checks on the supporting document that you send us to show that you were in care. If that document comes from your care provider, we may check with them it is a genuine copy. We will not share any other information on your application form with them.

If you are concerned about us contacting your care provider, you may want to consider if there is another document you can obtain, for example from the local authority or education authority. Please contact the Advance Payment Team if you would like to be referred to an organisation that can help you try to find a relevant document.

Will you share information with Police Scotland if you have concerns for other children or vulnerable adults?

It is everyone's responsibility to protect children, whether it be at home, at school or in the community. Vulnerable adults also have rights to be protected from harm. If you provide us with information that indicates potential risks of ongoing abuse or current risks to vulnerable children or adults, we will need to raise those concerns with the relevant policy and child protection services. A member of the Advance Payment Team will contact you before making any report. We can make a report that does not identify you if that is your preference.

9. OTHER QUESTIONS

Why is an Advance Payment only available to those who have a terminal illness or who are age 70 or over?

The Advance Payment Scheme is for those who may not live long enough to apply to the statutory redress scheme due to age or terminal illness. We will review the age limit after three months of the scheme being open. We recognise that many survivors face considerable ill health and we are sorry that we will not be able to include everyone at this stage.

I am not eligible for an Advance Payment. Can I apply to the Statutory Financial Redress Scheme?

The Advance Payment Scheme is for those age 70 or over, or those who have a terminal illness. If this does not apply to you, but you were abused in care, you may be able to apply to the statutory financial redress scheme when it opens. If you reach the age of 70 or develop a terminal illness before the statutory scheme has opened you can apply for an Advance Payment at that point.

The Government has committed to introducing legislation in Parliament to establish a statutory financial redress scheme. With Parliament's approval, this should be passed by the end of this Parliamentary term in March 2021. The statutory scheme will open as soon as is possible after that.

Does this mean that the Scottish Government is accepting legal liability?

No, the payment of ex gratia sums under the Advance Payment Scheme does not mean that legal liability in individual cases is being accepted by the Scottish Government. Redress schemes elsewhere usually operate on the basis of ex-gratia payments, which means that there is no legal obligation to pay. The Scottish Government feels that there is a strong moral responsibility to do the right thing, which is why it has committed to provide financial redress for historical child abuse in care.

On what basis will Advance Payments be made without legislation?

The payment will be made with Scottish Government relying on its common law powers. The payment does not arise from any statutory right. The payments will be discretionary and made on an ex gratia basis.

10. SOURCES OF SUPPORT AND ADVICE

Supporting victims and survivors of historical child abuse

In considering whether to apply for an Advance Payment you may have spent time thinking about what happened to you as a child. It is possible that memories and feelings may have resurfaced that are causing you anxiety and distress. It is important to know that what happened to you was not your fault, and that support is available.

Please let the Advance Payment Team know if you would like to be referred for support from Future Pathways. Future Pathways offers help and support to people who were abused or neglected as children while they were living in care in Scotland. They can help victims and survivors access person-centred support that will help them to lead full, healthy and independent lives. Future Pathways is funded by the Scottish Government.

If you prefer to contact Future Pathways directly, details are available on their website <https://future-pathways.co.uk/contact/> or telephone 0808 164 2005. If you let the Future

Pathways team know that you are applying for an Advance Payment they can give you priority access to support.

The Scottish Government's website has a section on historical, or 'non-recent', childhood abuse which lists sources of support, including information about telling the police if you wish to do so. You can find out more here <https://www.mygov.scot/childhood-abuse/>.

General advice

If you would like advice about managing your finances, your wider situation, or perhaps you want to understand the options regarding Power of Attorney or Guardianship, you may want to contact **Citizens Advice Scotland** or **Age Scotland**.

Both of these organisations have sections on their websites which provide more information about managing affairs for someone else, or Power of Attorney. Links to these are provided here:

Citizens Advice Scotland:

<https://www.citizensadvice.org.uk/scotland/family/help-for-adults-in-the-community-s/managing-affairs-for-someone-else-s/>

Age Scotland:

<https://www.ageuk.org.uk/scotland/information-advice/legal-and-family-issues/power-of-attorney-and-mental-capacity/>

Immediate help

If you become upset at any point **Breathing Space** and the **Samaritans** can provide immediate help.

Breathing space: Call free of charge on **0800 83 85 87**, Monday to Thursday from 6pm to 2am, weekend from Friday at 6pm to Monday morning at 6am. <https://breathingspace.scot/>

Samaritans: Call free of charge on **116 123** from the UK, any time of the day or night. <https://www.samaritans.org/scotland/samaritans-in-scotland/>