

REDRESS FOR SURVIVORS (HISTORICAL CHILD ABUSE IN CARE) (SCOTLAND) ACT 2021

DEVELOPMENT OF THE ASSESSMENT FRAMEWORK

The Redress for Survivors (Historical Child Abuse in Care) Scotland Act 2021 (“the Act”) received Royal Assent on 23 April 2021.

The financial redress scheme established by the Act is not yet open. Work is underway to ensure that it will open for applications as soon as possible, by December 2021 at the latest, subject to the agreement of Redress Scotland, the independent decision-making body.

Part of that work involves developing the statutory guidance that requires to be in place before we open the scheme.

A crucial piece of that guidance is the Assessment Framework which will support decision making by Redress Scotland on applications for individually assessed payments.

Background

Redress provides tangible recognition of the harm caused and acknowledges that it should never have happened. The redress scheme does not attempt to compensate survivors in the same way that a court would, or to put them into the position they would have been in, had the abuse not happened. We understand that no amount of money, or any other measure, can do that. Redress does not seek to assess the ‘loss’ suffered by survivors in the way that civil courts do. Individuals will not have to establish injury or loss or prove the harm caused by the abuse. Instead, it will be sufficient for applicants to establish that the abuse occurred in an eligible setting.

Although Redress Scotland will not be directed to assess impact when considering the application, it will be important for some survivors to share that part of their overall experience and to be heard. It may also be the case in some circumstances that evidence of impact is a source of information which supports the fact of the abuse having taken place, for example evidence of a physical impairment or psychological disorder.

The redress scheme will assess the abuse suffered by reference to the factors set out in the Act: nature, severity, frequency, and duration of abuse along with any other relevant matters.

The Assessment Framework has been designed to support fair, transparent and consistent decision-making by Redress Scotland. The Framework will be published and openly available to assist survivors in their own consideration of where their experience would sit within the payment levels.

The Framework aims to capture the escalating levels of harm experienced by children abused in care in Scotland. The levels are illustrated by examples of abusive behaviour informed by factual descriptions given by survivors to the Scottish Child Abuse Inquiry, the Independent Inquiry into Child Sexual Abuse in England and Wales (IICSA) and other bodies. These are by no means exhaustive but attempt to take into particular account the specific and distinct features relevant to children who are abused in care, as opposed to those abused in other settings.

Stakeholder views

An earlier draft of the Assessment Framework was submitted for parliamentary scrutiny during the passage of the legislation. We have continued to work with clinical psychologists to develop the Framework taking on board feedback received throughout that process and beyond.

We do not intend to launch a formal consultation where views are sought and responses published and analysed. We are however interested to hear views from those who wish to contribute, and in the following pages we lay out the latest draft of the Assessment Framework together with some questions. We are not issuing this document to individuals on our mailing lists but we are issuing it to selected relevant organisations, including survivor representative organisations, who may wish to respond on behalf of their members.

We welcome any views you would like to share with us and these will be taken into account as we continue to develop the Assessment Framework in advance of opening the scheme. We will not share your views with third parties.

Timing

The Covid pandemic means that we are not working in the office at the moment. We would therefore ask for views by email if at all possible to redress@gov.scot by **Friday 10 September 2021**. If this is not possible for you and you wish to send us your views in hard copy then please post to:

Redress and Advance Payments Team
Area 2A South
Victoria Quay
Edinburgh
EH6 6QQ

Please note you may find some of the content of this document distressing.

It contains detailed descriptions of abuse including explicit and graphic language. We also appreciate that thinking about and equating amounts of payments with different types of abuse may also cause upset.

Contact details for immediate support services can be found here:

FBGA accompanying commissioned letter and commissioned assessment framework feedback/comments/recommendations highlighted in RED in the said draft document previously received from the Scottish Government Civil Servants

Telephone free of charge [Breathing Space](#) on 0800 83 85 87 (Monday-Thursday 6pm to 2am Weekend: Friday 6pm-Monday 6am) or [Samaritans](#) on 116 123 (anytime).

INTRODUCTION TO THE ASSESSMENT FRAMEWORK

The focus of the Redress Scotland decision making panels will be on the nature, severity, frequency and duration of the abuse to which the application relates. The framework describes examples of different abuse experiences as well as relevant factors that the panels may consider as they make their decision.

Please note that the levels set out below are given in broad terms but we recognise the wide variety of individual experiences and circumstances. This framework is meant as guidance only and aims to help those panels make consistent and transparent decisions on the appropriate redress payment for each individual application.

Redress Scotland will not measure impact like a civil court would for damages. The redress scheme recognises that all abuse has a lasting impact; sometimes physical, sometimes psychological, sometimes both. Survivors will not be required to establish or evidence the extent to which their lives have been affected by the abuse they suffered as children, although some survivors will want to describe this and they will not be discouraged from doing so. As well as allowing them to give their full account, so they feel heard, this will also provide the decision-making panel with information they can consider in determining the severity of the abuse, and the totality of the experience.

Examples of this may include, in no particular order:

- Regular absence from school & disrupted education
- Limited opportunities to help make and sustain peer friendships
- Barriers to sustaining positive relationships with family members
- Lack of opportunities to build a positive relationship with any adult in the care setting or outwith
- Lack of opportunities and interventions to build self-esteem and self-worth, with no marking of achievements (education or other)
- Lack of opportunities to develop personal identity, with a failure to treat the child as an individual, e.g. to acknowledge birthdays and limited information given on family background
- Lack of opportunities to celebrate and follow own/family's religious culture and beliefs
- Lack of opportunity to prepare practically, socially and emotionally for life after care

PAYMENT LEVEL 1 £20,000	
<ul style="list-style-type: none"> Applicants at this level will have suffered one or more type of abuse and a consideration of the relevant factors means that this payment level is appropriate. The decision making panel will consider the nature, severity, frequency and duration of abuse. The list of examples of descriptors of abuse and the list of relevant factors, both noted below, are not exhaustive. 	
Descriptors of Abuse	Relevant Factors
<ul style="list-style-type: none"> We recognise that not all experiences noted below may meet this level of payment. In these cases, the duration of the abusive experience and the relevant factors will be of particular significance. 	<ul style="list-style-type: none"> In order to make an assessment on the nature, severity, frequency and duration of abuse, Redress Scotland may take into account relevant factors.
<p>Examples of descriptors of abuse, in no particular order:</p> <p>Emotional abuse and neglect</p> <ul style="list-style-type: none"> Routine, Regular (please replace Routine and Regular with more than one incident of, or repeated incidents of) emotional abuse with physical threat or direct physical abuse associated with basic day to day care needs such as: <ul style="list-style-type: none"> humiliating and/or degrading practices around bathing; humiliating and/or degrading practices around bed wetting; or humiliating and/or degrading practices around force feeding. 	<p>Examples of relevant factors in no particular order:</p> <ul style="list-style-type: none"> length of time in care the age of the applicant at the time of the abuse the relationship to the perpetrator the number of perpetrators the number of relevant care settings in which the applicant was abused the combination or accumulation of different types of abuse the personal circumstances and/or vulnerability of the survivor (for example, race, religion or disability) please include emotional vulnerability e.g. recently admitted to care setting, death of/desertion by parent, abused/neglected by parent

<ul style="list-style-type: none"> • Routine, regular (Routine and Regular please replace with more than one incident of, or repeated incidents of) instances of emotional abuse. Emotional abuse at this level may include persistent, verbal abuse, such as demeaning or humiliating comments impacting on identity and self-esteem such as continued name calling, racist or discriminatory treatment, derogatory remarks about the child's family and how the child came to be in care and their life chances after care. <p>Please include spiritual abuse:</p> <p>The use/misuse of religion/religious practices to exert coercive control/incite fear/humiliate. Excessive/forced adherence to religious practices.</p> <p>Emotional abuse at this level may also include being regularly (please replace regularly with more than one incident of being) forced to carry out chores unreasonable for the age and capacity of the child at the time or the nature of that work being abusive and distressing in itself. It may also include any other type of exploitation.</p> <ul style="list-style-type: none"> • Please add grooming, grooming in itself is emotional abuse (& neglect from the carers perspective/failure to protect a child). Being "groomed" for sexual abuse/sexual exploitation or other abuse/exploitation. Routine, regular (please remove Routine and regular Abuse that takes the form of Neglect. Neglect is the persistent failure to meet a child's basic physical and/or psychological needs or failure to respond to basic emotional 	<ul style="list-style-type: none"> • the extent to which the child was singled out and treated differently from others in the care setting at the same time • the response to disclosures of abuse made by the survivor at the time, including lack of action and/or punishment for the disclosure <p>other additional elements relating to the character of the setting, for example isolation in the case of children boarded out to crofts, large impersonal institutions, the place of religion in the abuse, day to day harsh punitive regime separation from siblings without continued contact and refusal of any requests from family members for contact or communication We strongly disagree, please see our accompanying letter, we believe</p>
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needs. It may involve failing to provide adequate food, shelter and clothing and emotional support, education, leisure and play, failure to protect a child from physical, sexual or emotional harm or danger, or to ensure access to appropriate medical care or treatment. Please include failure to support/encourage the child to develop as an individual/pursue personal beliefs and preferences.

- Witnessing the regular (please remove regular) abuse or severe abuse of other children and living in a climate of punishment and fear.

Physical Abuse

- Physical abuse carried out in connection with emotional abuse around day to day care needs (see Emotional Abuse and Neglect above).
- Infrequent (Please replace (infrequent) with an incident of and/or more than one incident) /instance of physical abuse including striking (with or without an implement), shaking, throwing, kicking, or similar conduct, which may or may not have caused injury. This includes instances where the physical abuse was corporal punishment or physical chastisement that by the standards of the time was excessive, arbitrary or cruel outwith the acceptable norms and regulations.

Sexual Abuse

- Exposure to harmful sexual behaviours causing fear, distress and alarm. These behaviours are unlikely to have involved contact and may include, for example, voyeurism, or exposure to sexual images or materials. **Please include: leering, making sexual overtures or sexual threats to the child, talking to the child or in front of the child using sexualised language**
- Single or infrequent **(please remove single and infrequent and replace with an incident of or more than one incident (s) of)** abuse of sexual touching over clothing.

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PAYMENT LEVEL 2 £40,000	
<ul style="list-style-type: none"> Applicants at this level will have suffered one or more type of abuse and a consideration of the relevant factors means that this payment level is appropriate. The decision making panel will consider the nature, severity, frequency and duration of abuse. The list of examples of descriptors of abuse and the list of relevant factors, both noted below, are not exhaustive. 	
Descriptors of Abuse	Relevant Factors
We recognise that not all experiences noted below may meet this level of payment. In these cases, the duration of the abusive experience and the relevant factors will be of particular significance.	In order to make an assessment on the nature, severity, frequency and duration of abuse, Redress Scotland may take into account relevant factors.
<p>Examples of descriptors of abuse, in no particular order:</p> <p>Emotional abuse and neglect</p> <ul style="list-style-type: none"> Routine, regular (please remove Routine and Regular and replace with one or more than one incident (s)/) instance of severe emotional abuse or neglect, e.g. in addition to the types of emotional abuse or neglect described at Level 1. Frequently (please remove, Frequently and replace with one or more incident (s) of being) forced to engage in the physical or emotional abuse of other children and/or witnessing the serious abuse of a sibling and being unable to prevent it. <p>Please add grooming, grooming in itself is emotional abuse Being “groomed” for sexual abuse/sexual exploitation or other abuse/exploitation.</p>	<p>Examples of relevant factors in no particular order:</p> <ul style="list-style-type: none"> length of time in care the age of the applicant at the time of the abuse the relationship to the perpetrator the number of perpetrators the number of relevant care settings in which the applicant was abused the combination or accumulation of different types of abuse the personal circumstances and/or vulnerability of the survivor (for example, race, religion or disability) the extent to which the child was singled out and treated differently from others in the care setting at the same time the response to disclosures of abuse made by the survivor at the time, including lack of action and/or punishment for the disclosure

<p>Physical Abuse</p> <p>Regular (please remove regular and replace with repeated) instances of physical abuse including striking (with or without an implement), shaking, throwing or kicking, or similar conduct, which may or may not have caused injury. This includes instances where the physical abuse was corporal punishment or physical chastisement that by the standards of the time was excessive, arbitrary or cruel and outwith the acceptable norms and regulations.</p> <ul style="list-style-type: none"> single or infrequent (please remove single and infrequent and replace with one or more incident (s) or / instances of) physical abuse including striking (with or without an implement), shaking, throwing or kicking, or similar conduct, causing injury which received, or ought to have received, medical treatment. <p>Please add physical abuse (stage 6/7 of child grooming) re: maintaining control. See accompanying letter.</p> <p>Sexual Abuse</p> <ul style="list-style-type: none"> Single or infrequent (please remove infrequent and consider one or more incident of) abuse of non-penetrative sexual touching under clothing or bedding 	<ul style="list-style-type: none"> other additional elements relating to the character of the setting, for example isolation in the case of children boarded out to crofts, large impersonal institutions, the place of religion in the abuse, day to day harsh punitive regime separation from siblings without continued contact and refusal of any requests from family members for contact or communication
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<ul style="list-style-type: none">Regular and (please remove regular) repeated exposure to abusive sexual behaviours, such as encouraging a child to behave in a sexual way <p>Other</p> <ul style="list-style-type: none">A combination of types and instances of abuse, together with a consideration of relevant factors, which means that the survivor's overall experience is most appropriately reflected by Level 2.	
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PAYMENT LEVEL 3 £60,000	
<ul style="list-style-type: none"> • Applicants at this level will have suffered one or more type of abuse and a consideration of the relevant factors means that this payment level is appropriate. • The decision making panel will consider the nature, severity, frequency and duration of abuse. • The list of examples of descriptors of abuse and the list of relevant factors, both noted below, are not exhaustive. • Applicants at this level are likely to have spent a number of years in the abusive care setting 	
Descriptors of Abuse	Relevant Factors
The duration of the abusive experience and the relevant factors will be of particular significance at this level. Applicants at this level are likely to have spent a number of years in the abusive care setting(s).	In order to make an assessment on the nature, severity, frequency and duration of abuse, Redress Scotland may take into account relevant factors.
<p>Examples of descriptors of abuse, in no particular order:</p> <p>Emotional abuse and neglect</p> <ul style="list-style-type: none"> • Routine , regular (please remove routine and regular) consider replacing with “many” or remove instances and replace with “chronic”) instances of severe emotional abuse or neglect, over a protracted period of time. Consider suggesting what this protracted period of time is in months/years? <p>Physical abuse</p>	<p>Examples of relevant factors in no particular order:</p> <ul style="list-style-type: none"> • length of time in care • the age of the applicant at the time of the abuse • the relationship to the perpetrator • the number of perpetrators • the number of relevant care settings in which the applicant was abused • the combination or accumulation of different types of abuse • the personal circumstances and/or vulnerability of the survivor (for example, race, religion or disability) • the extent to which the child was singled out and treated differently from others in the care setting at the same time

<ul style="list-style-type: none"> • Regular and (please remove the word regular) repeated (incidents) / instances of physical abuse including striking (with or without an implement), shaking, throwing or kicking, or similar conduct, causing injury which received, or ought to have received, medical treatment. • Physical abuse at this level may also include single or infrequent (please remove infrequent, replace with more than one (incident(s) /instances of physical abuse involving scalding, burning, stabbing, drowning, poisoning, and suffocating which may or may not have caused Injury. <p>Please add “persistent and repeated physical assaults carried out over a sustained period”. See our accompanying Letter</p> <p>Please add persistent and repeated physical abuse (stage 6/7 of child grooming re: maintaining control/impact is a significant predictor of trauma symptom severity. See accompanying letter.</p> <p>Sexual abuse</p> <ul style="list-style-type: none"> • Single or infrequent (please remove single or infrequent and replace with an incident or more than one incident (s) of sexual abuse involving masturbation and/or being forced to carry out masturbation 	<ul style="list-style-type: none"> • the response to disclosures of abuse made by the survivor at the time, including lack of action and/or punishment for the disclosure • other additional elements relating to the character of the setting, for example isolation in the case of children boarded out to crofts, large impersonal institutions, the place of religion in the abuse, day to day harsh punitive regime • separation from siblings without continued contact and refusal of any requests from family members for contact or communication
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<ul style="list-style-type: none">• Single or infrequent (please remove single and infrequent and replace with an incident) or incident(s) of being forced to engage in the sexual abuse of other children <p>Other</p> <ul style="list-style-type: none">• A combination of types and instances of abuse, together with a consideration of relevant factors, which means that the survivor's overall experience is most appropriately reflected by Level 3.	
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PAYMENT LEVEL 4 £80,000	
<ul style="list-style-type: none"> • Applicants at this level will have suffered one or more type of abuse and a consideration of the relevant factors means that this payment level is appropriate. • The decision making panel will consider the nature, severity, frequency and duration of abuse. • The list of examples of descriptors of abuse and the list of relevant factors, both noted below, are not exhaustive. • The time spent in abusive care setting(s) is likely to be a significant proportion of childhood 	
Descriptors of Abuse	Relevant Factors
The duration of the abusive experience and the relevant factors will be of particular significance at this level. Applicants are likely to have spent a significant proportion of their childhood in abusive care setting(s).	In order to make an assessment on the nature, severity, frequency and duration of abuse, Redress Scotland may take into account relevant factors.
<p>Examples of descriptors of abuse, in no particular order:</p> <p>Emotional abuse and neglect</p> <ul style="list-style-type: none"> • Sustained, severe emotional abuse and neglect of an extent and duration that is not adequately reflected at previous levels. (consider adding a time period e.g. adding up to a total period of years) <p>Physical abuse</p> <ul style="list-style-type: none"> • Physical abuse causing severe injury which received, or ought to have received, medical treatment and which may or may not have resulted in permanent impairment or disfigurement. 	<p>Examples of relevant factors in no particular order:</p> <ul style="list-style-type: none"> • length of time in care • the age of the applicant at the time of the abuse • the relationship to the perpetrator • the number of perpetrators • the number of relevant care settings in which the applicant was abused • the combination or accumulation of different types of abuse • the personal circumstances and/or vulnerability of the survivor (for example, race, religion or disability) • the extent to which the child was singled out and treated differently from others in the care setting at the same time

FBGA accompanying commissioned letter and commissioned assessment framework feedback/comments/recommendations highlighted in RED in the said draft document previously received from the Scottish Government Civil Servants

Please include physical abuse that was repeated and sustained and is likely to have caused permanent severe psychological injury/lifelong psychiatric injury/psychological impairment e.g. complex/lifelong PTSD

Please add repeated and sustained physical abuse (stage 6/7 of child grooming re: perpetrator maintaining control)/impact can last a lifetime/is a significant predictor of trauma symptom severity. See accompanying letter.

- Physical abuse at this level may include the full spectrum of abusive behaviours including striking (with or without an implement), shaking, throwing, kicking, scalding, burning, stabbing, drowning, poisoning, suffocating or other conduct.

Please add repeated and sustained incidents of physical abuse, as in level 3

Sexual abuse

- Regular (please remove regular) Repeated instances of sexual abuse involving masturbation and/or being forced to carry out masturbation
- Regular and (please remove regular, replace with being) repeatedly forced to engage in the sexual abuse of other children
- one incident of severe sexual abuse involving a penetrative act (including oral, vaginal and anal rape).

- the response to disclosures of abuse made by the survivor at the time, including lack of action and/or punishment for the disclosure
- separation from siblings without continued contact and refusal of any requests from family members for contact or communication

<p>Other</p> <ul style="list-style-type: none">• A combination of types and instances of abuse, together with a consideration of relevant factors, which means that the survivor's overall experience is most appropriately reflected by Level 4.	
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PAYMENT LEVEL 5 £100,000	
<ul style="list-style-type: none"> • Applicants at this level will have suffered one or more type of abuse and a consideration of the relevant factors means that this payment level is appropriate. • The decision making panel will consider the nature, severity, frequency and duration of abuse. • The list of examples of descriptors of abuse and the list of relevant factors, both noted below, are not exhaustive. • The time spent in abusive care setting(s) is likely to be a significant proportion of childhood. 	
Description of Abuse	Relevant Factors
Abuse at this level is particularly severe. Applicants are likely to have spent a significant proportion of their childhood in abusive care setting(s).	In order to make an assessment on the nature, severity, frequency and duration of abuse, Redress Scotland may take into account relevant factors.
<p>Examples of descriptors of abuse, in no particular order:</p> <p>Emotional abuse and neglect</p> <ul style="list-style-type: none"> • Sustained, severe emotional abuse and neglect of an extent and duration that is not reflected at other levels. <p>Physical abuse</p> <ul style="list-style-type: none"> • Physical abuse causing severe injury and/or was potentially life threatening, which received, or ought to have received, medical treatment. It is likely that the abuse resulted in permanent impairment or disfigurement. Please include physical abuse that 	<p>Examples of relevant factors in no particular order:</p> <ul style="list-style-type: none"> • length of time in care • the age of the applicant at the time of the abuse • the relationship to the perpetrator • the number of perpetrators • the number of relevant care settings in which the applicant was abused • the combination or accumulation of different types of abuse • the personal circumstances and/or vulnerability of the survivor (for example, race, religion or disability) • the extent to which the child was singled out and treated differently from others in the care setting at the same time

FBGA accompanying commissioned letter and commissioned assessment framework feedback/comments/recommendations highlighted in RED in the said draft document previously received from the Scottish Government Civil Servants

was repeated and sustained and is likely to have caused permanent/severe psychological/psychiatric injury/impairment e.g. complex/lifelong PTSD. Please add repeated and sustained physical abuse (stage 6/7 of child grooming re: perpetrator maintaining control)/impact can last a lifetime/is a significant predictor of trauma symptom severity. See accompanying letter.

- Physical abuse at this level may include the full spectrum of abusive behaviours including striking (with or without an implement), shaking, throwing, kicking, scalding, burning, stabbing, drowning, poisoning, suffocating or other conduct.

Sexual abuse

- regular(~~please remove regular~~) Repeated incidents/) instances of sexual abuse involving penetrative acts (including oral, vaginal or anal rape).
- Trafficking while still resident in the care of the relevant care setting in Scotland for the purpose of sexual abuse.

- the response to disclosures of abuse made by the survivor at the time, including lack of action and/or punishment for the disclosure
- other additional elements relating to the character of the setting, for example isolation in the case of children boarded out to crofts, large impersonal institutions, the place of religion in the abuse, day to day harsh punitive regime
- separation from siblings without continued contact and refusal of any requests from family members for contact or communication

Other <ul style="list-style-type: none">• A combination of types and instances of abuse, together with a consideration of relevant factors, which means that the survivor's overall experience goes beyond that covered in other levels.	
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QUESTIONS

We would like your feedback in the boxes below. Please use as much space as you need.”.

1. Does the Assessment Framework provide enough detail and clarity to allow survivors, and their representatives, to see how individual experiences might sit within the payment levels?

Please see refer to the accompanying letter attached with this commissioned submission-response

2. Are the payment levels sufficiently distinct in terms of the abusive behaviours which may fall under them?

Please refer to the accompanying letter attached with this commissioned submission-response

3. In seeking to provide detail as well as

transparency between the payment levels, some of the language used is graphic, do you have any views on that?

4. The Framework is not intended to be overly prescriptive as we recognise that the amount payable in any individual case, is a matter for the judgement of the independent decision makers of Redress Scotland, taking all relevant considerations into account as provided for in the Act.

Do you feel that we have the balance right to ensure that assessment is not rigid and inflexible? Does it offer enough transparency and allow for consistency in decision making?

5. At

Please refer to the accompanying letter attached with this commissioned submission- response.

each

payment level, there are examples of abusive behaviour for different types of abuse (emotional abuse and neglect, physical abuse and sexual abuse)? What are your views on whether the examples at each payment level fairly and appropriately capture the escalating levels of harm experienced by children abused in care in Scotland?

Please refer to the accompanying letter attached with this commissioned submission- response

6. Do you have any comments on the list of 'relevant factors' that would be considered in each application? Are there any factors that you feel should not be included or any that you feel are missing?

Please refer to the accompanying letter attached with this commissioned submission- response

Any other comments:

10th September 2021, FBGA accompanying commissioned letter, along with the commissioned assessment framework feedback/comments/recommendations highlighted in RED in the said draft assessment document previously received from Scottish Government Civil Servants.

FBGA and the Commissioned professionals would welcome the opportunity to discuss and engage further concerning this submission and response with the committee (s) reviewing the secondary legislation for Redress Scotland Bill 2021 and the Scottish Government civil servants and those clinical professionals they consulted with and others.

10th September 2021Email: fbga1@aol.com

Dear All,

Former Boys and Girls Abused Quarriers Homes (FBGA), Commissioned Response to the Proposed Assessment Framework pages 1-23 & pages 24- 29 additional accompanying letter.

Mr John Swinney, MSP, Deputy First Minister, stated to the Education and Skills committee (10/02/2021, page 31 Education and Skills committee report)

Quote: “ We always intended our definition of “abuse” to cover all the forms of abuse that survivors might have suffered, and our view was that the very broad categories set out in the bill achieved that. However, during stage 1, concerns were expressed that it was possible that some types of abuse might be excluded by the bill and would therefore not be eligible for redress. I have listened to those concerns and am persuaded that, for the sake of clarity, consistency and reassurance for survivors, there is merit in aligning the definition in the bill with that in the 2017 act. Amendment 51 therefore substitutes “includes” for “means” in section 17(1).

We have been commissioned by FBGA in our roles as experts by care experience and practicing clinicians to respond to the proposed framework. Please find attached a copy of the proposed assessment framework, with our responses/concerns highlighted in the body of the text. Please also find below our replies to the questions that you have asked regarding the framework.

We would like to acknowledge the complex, arduous, and emotionally challenging task of creating the assessment framework. Our responses are designed to support the continued development of the framework as trauma informed and survivor centred.

We ask that the words “infrequent” “routine” and “regular” are all completely removed from the assessment framework, and replaced with “an incident of, more than one incident of” etc. We recognize the intention of using “routine and regular” and “infrequent” is to quantify the frequency of abuse. However, we are concerned that they do not adequately reflect the severity of the abuse and suffering endured. Survivors could feel their experiences are minimized by the use of words such as “infrequent” or “routine” with the risk that they will feel “gaslighted” and traumatised all over again.

- 1. Does the assessment framework provide enough detail and clarity to allow survivors, and their representatives, to see how individual experiences might sit within the payment levels?**

Sexual abuse: The assessment framework provides clarity and sufficient detail regarding sexual abuse, and the associated payment levels. However, we request that “verbal” sexual abuse and “leering” are added.

Physical abuse: The framework provides clarity and sufficient detail regarding physical abuse, and the associated payment levels. However, physical abuse in connection to sexual abuse (grooming/maintaining control) needs more consideration. See below.

Neglect: We consider that more clarity regarding where experiences of neglect will sit in the payment levels is needed. There is also a significant risk that neglect will be under redressed, with sustained periods of /severe neglect being wrongly placed in the lower levels.

Unfortunately, in its current state the framework does not reflect the “parity of esteem” that all four types of abuse (sexual, emotional, physical, neglect) were given within the bill. This need for parity of esteem was highlighted by Mr John Swinney MSP, Deputy First Minister in his meeting with the Education and Skills committee on 10.2.21. Amendment 51 was agreed in section 17(1) to confirm parity of esteem for all types of abuse.

We ask that time spent enduring neglect is used as a measure of its “frequency”, this will provide parity of esteem to other types of abuse. It will also provide clarity regarding the assessment of neglect to both survivors and the redress panels. Currently the phrases “a significant proportion of childhood” and “a number of years” are used to represent time spent in the abusive care setting. Individual survivors and the Redress panel members could interpret these differently. In a care setting childhood was considered to be birth-16 years. Clarity is required as to what is a significant period of childhood in this context.

Emotional abuse: The assessment framework provides clarity and sufficient detail regarding some aspects of emotional abuse. We request that spiritual abuse is added as an additional aspect of emotional abuse.

In order for the framework to be trauma informed and accurately reflect survivor’s whole abuse experiences we ask that the following are added:

- A. “Grooming” for sexual abuse/exploitation
- B. Threatening/intimidating/rough handling a child in combination with physical/sexual assault.

The toxic combination of these abuses is deeply traumatising for children. The severity of these experiences is currently not reflected in the assessment framework.

2. Are the payment levels sufficiently distinct in terms of abusive behaviours which may fall under them?

The payments levels are distinct for sexual and physical abuse, but not for neglect and emotional abuse.

3. What are your views on the graphic language?

The “graphic” language is necessary to provide clarity regarding payment levels. It also acknowledges the depravity of the abuse endured.

4. Do you feel we have the balance right to ensure that assessment is not rigid and inflexible? Does it offer enough transparency to allow for consistency in decision making?

The balance appears right in terms of rigidity/flexibility.

5. What are your views on whether the examples at each payment level fairly and appropriately capture the escalating levels of harm experienced by children in care in Scotland?

We are in disagreement with the payment level attached to some survivor’s experiences of sexual abuse (see comments in text).

We do not feel that escalating levels of neglect and emotional abuse are currently captured.

Please also see previous comments regarding emotional abuse in terms of capturing the escalating nature/severity of a combination of abuses e.g. verbal intimidation/sexual /physical assault

The escalating nature of chronic physical abuse is not captured: The pernicious nature of repeated/sustained physical abuse over a number of months/years and the devious behaviour of those who inflicted it is not understood/reflected.

Physical abuse would therefore be under redressed. We believe repeated/sustained physical assaults (what might be termed “chronic physical abuse”) should be cited in levels 4 and 5. In keeping with the insidious and devious nature of those who sexually abused children, abusers who repeatedly physically assaulted children did so in a manner that concealed the evidence of that abuse, by deliberately not hitting hard enough to create a visible injury.

We also note that within levels 4 and 5 permanent lifelong physical impairment or disfigurements, due to physical assault are (quite rightly) redressed. We ask that predicted severe/lifelong psychological outcomes are given equal weighting in measuring the severity of the physical abuse that was endured.

Therefore, that repeated and persistent sustained physical assaults with extremely high risk of permanent lifelong/life changing psychiatric injury is redressed at these levels.

We believe if applied in its current form neglect and emotional abuse will be significantly under redressed, and physical abuse will be under redressed.

6. Do you have any comments on the list of “relevant factors” that should be considered in each application? Are there factors you feel should not be included or that are missing?

We ask that the personal circumstances and/or vulnerability of the survivor includes emotional vulnerability e.g. recently admitted to care setting, change of carer, death of/desertion by parent, abused/neglected by parent.

Separation of siblings:

We are strongly opposed to separation from siblings being excluded from Redress when “contact” was maintained. Separation from siblings was hugely distressing for children, inducing anxiety and panic.

An additional trauma/profound loss in addition to the abuse, neglect, and bereavements the child had already suffered prior to going into care. At Quarriers many siblings were immediately separated, and placed in separate cottages causing significant additional loss and distress.

Sibling bonds were severed, permanently damaging sibling relationships. Separated siblings were left feeling “guilty” that they were no longer able to protect and care for each other. Others felt abandoned by the siblings taken from them.

Seeing a sibling from a distance (e.g. as many as 3/4 siblings separated/living in 3/4 different cottages) and not being able to connect/protect on a physical and emotional level is indicative of the systematic psychological neglect and abuse that children were subjected to.

Siblings were separated due to the punitive and controlling “culture” of the institution, effectively degrading survivors as children who were not “worthy” of a right to family life.

Many were separated according to gender. However, boys were made to live with the daughters of house parents, and girls with the sons of house parents, yet survivors own brothers and sisters were not permitted to live with them.

Children experienced fear, panic, confusion and a loss of control over their life.

These feelings would have exhibited as anger/outbursts of rage (covert and overt or both). Anger outbursts would attract punitive measures from staff, amplifying the child’s distress, anger, rage, and outbursts further. A vicious cycle of psychological abuse/child maltreatment inevitably impacting on the child’s development and well-being was therefore perpetuated.

In addition, “contact” was wholly inadequate/unreliable, and completely reliant on a chance bumping into your sibling in the village or at school. This cannot be deemed as sufficient to meet the “contact” needs of siblings.

Where siblings could have stayed together and it was in their best interests to do so we firmly believe this should be redressed, regardless of whether “contact” was maintained.

Grooming:

We strongly object to the omission of grooming as part of the assessment framework. There are 6/7 stages of the grooming process, depending on what model you refer to. Grooming (for child sexual abuse) is when someone builds a relationship, trust and emotional connection with a child or young person so that he or she can manipulate and sexually exploit the child.

7 stages of grooming:

- Victim selection
- Gaining a trust/access
- Filling a need/creating personal connection
- Isolating the child
- Creating a secret relationship
- Sexualising the relationship
- Maintaining control/capitalising (threats/violence)

The assessment framework should include the stages of grooming with a level of redress appropriate for each stage. This will reflect the compound nature of the abuse preceding the worst act of physical abuse (under physical abuse).

This includes the physical abuse associated with the 'maintaining control' element of the grooming stages. This is different from other forms of physical abuse that are not related to grooming.

This type of complex abuse (emotional, physical and sexual) as mentioned above, has life-long implications/is a significant predictor of trauma symptom severity and therefore must be recognised in the higher/highest levels of redress.

Thank you for your consideration of our concerns, please could we arrange a meeting with you to discuss these in more depth,

Yours sincerely,

Dr Susannah Lewis, Principal Clinical Psychologist (DClinPsy)

██████████ Plus a (Psychotherapist (Art) MA/HCPC/BAAT)

**cc: Johnny Gwynne, Chair Redress Scotland, Joanna McCreadie, CEO Redress Scotland,
Plus lead Scottish Parliament scrutinising Secondary Legislation Redress Scotland Act 2021**