

Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill

[As Amended at Stage 2]

Revised Financial Memorandum

Introduction

1. As required under Rule 9.7.8B of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill as amended at Stage 2.
2. This Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.
3. The purpose of this revised Financial Memorandum is to set out the expected costs associated with the provisions now included in the Bill following the amendments made at Stage 2. It also reflects the further analysis which has been conducted to refine the estimated number of applicants to the redress scheme. Text has been added or deleted as necessary, and changes are indicated by sidelining in the margin.

The Bill

4. The Bill seeks to establish a financial redress scheme for survivors of historical child abuse in care in Scotland, and, where eligible, their next of kin. The main purpose of the scheme is to acknowledge and provide tangible recognition of the harm suffered as a result of historical child abuse whilst residing in a relevant care setting in Scotland. The scheme will also provide some non-financial elements of redress such as acknowledgement and support. The redress scheme established by the Bill will also sit alongside other measures in place to support survivors of historical child abuse including apology. There will be at least a five year window during which applications can be made to the scheme (the Bill provides that the application period will last for whichever is the longer of either five years, or two years beyond the lifetime of the Scottish Child Abuse Inquiry). The Scottish Ministers are required to carry out a review of the time period 15 months prior to the end of the application period unless steps have already been taken to extend it. There remains a regulation-making power in section 29(2) of the Bill to enable the scheme to be extended for a further period (subject to the Parliament's approval).

5. The Scottish Government launched the advance payment scheme in April 2019, to give priority groups of survivors access to financial redress whilst the statutory scheme was developed. The discretionary advance payment scheme provides acknowledgement and recognition, by means of an *ex gratia* financial payment of £10,000 and a reiteration of the Deputy First Minister's apology made in the Scottish Parliament on 23 October 2018, to those who suffered abuse in care in Scotland before 1 December 2004, and who either have a terminal illness or are age 68 or over.¹ The advance payment scheme will remain open until the statutory scheme is implemented. The experience of administering the advance payment scheme has been invaluable in informing the design of the statutory scheme and in improving the Scottish Government's understanding of the issues and processes involved for survivors of abuse in care seeking financial redress.

6. The Bill provides that survivors will choose at the point of application whether to apply for a fixed rate redress payment or an individually

¹ When the scheme launched, it was initially open to those who had a terminal illness or were age 70 or over. The age threshold was lowered following a review of the scheme in December 2019.

assessed redress payment. Those who apply for and receive a fixed rate redress payment will, for the duration of the scheme, retain the right to subsequently apply for an individually assessed redress payment (from which the fixed rate redress payment will be deducted).

7. The types of payment will involve different application and assessment processes. The fixed rate redress payment will be available to survivors who meet the eligibility requirements of the scheme (i.e. those who have been assessed to have been abused as a child before 1 December 2004 while resident in a relevant care setting in Scotland). It is designed to provide choice for those who seek financial redress without having to provide a detailed account of their abuse which would be an arduous and distressing process for some. It will involve different evidential requirements than the individually assessed payment and provide recognition without the need for detailed recounting of the abuse suffered.

8. The individually assessed redress application process provides the choice for survivors who meet the eligibility requirements of the scheme to recount their individual experience of abuse, if they wish to do so. The assessment for the individually assessed payment will involve a more detailed examination of the facts and circumstances of their experience and will require more by way of supporting evidence from the applicant than the fixed rate redress payment. In consultation with clinical psychologists and other relevant experts, the Scottish Government is developing an assessment framework which Redress Scotland will have to have regard to operationally when considering accounts of abuse and determining the level of individually assessed redress payment to be offered. The framework will be published along with other guidance on the scheme. It will help decision-makers to make appropriate, consistent decisions and will provide survivors with a sense of where their experience would sit within the payment levels offered.

9. A restricted category of next of kin of deceased survivors will be eligible to apply for the fixed rate redress payment where the survivor died on or after 1 December 2004. Guidance will set out that applicants will need to provide documentary evidence or other supplementary information to support their application. This may require reaching out to other bodies for records, which will have cost implications. Whilst applicants already have the right to access personal information under existing data regulations, it is anticipated that the creation of the scheme will generate an increase in requests due to the requirement for survivors to provide

supporting documentation as part of their application to the redress scheme. The Bill gives the Scottish Ministers the power to obtain information on the applicant's behalf. It is proposed that, in line with other redress schemes and the powers of statutory inquiries such as the Scottish Child Abuse Inquiry (SCAI), failure to comply with a request for information would constitute a criminal offence capable of prosecution at summary level.

10. The Scottish Ministers will be seeking financial contributions to the scheme from those who were responsible for the care of children where and when the abuse occurred, whether providing care directly or otherwise involved in the decision-making processes and arrangements by which the child came to be in care. Where a fair and meaningful financial contribution is made to the scheme, that contributor will benefit from the waiver provided for in the Bill. Redress payments made under the scheme will be conditional upon the applicant signing a waiver which will relinquish their right to continue or raise relevant civil proceedings in respect of the abuse, such as actions for damages, against the Scottish Government and others who have made fair and meaningful financial contributions to the scheme and are therefore on the contributor list at the relevant time.

11. Subject to conditions, the Scottish Government will fund independent legal advice for all applicants to the scheme for advice and assistance in connection with the making of an application and the acceptance of a redress payment. Not all applicants will wish to choose to accept this assistance but it will be strongly encouraged at the point of accepting a redress payment and signing a waiver.

12. The Bill establishes Redress Scotland, a non-departmental public body which will carry out the assessment, decision-making and review functions of the scheme. The organisation will be independent from the Scottish Government, providing reassurance to survivors that the assessment and decision-making elements of the scheme will be impartial. Applications will be considered, determined and reviewed by panels formed of members of Redress Scotland. The Scottish Ministers must appoint as members only persons having such skills, knowledge and expertise as the Scottish Ministers consider relevant to the carrying out of the functions of Redress Scotland. This may include those with relevant expertise in the fields of emotional and psychological trauma, law, social work and health. The administrative and processing functions of the scheme will be carried out by a division of the Scottish Government.

13. Alongside financial redress, the Bill will create the opportunity for survivors to access non-financial redress, including counselling. Applicants who receive payments may also be signposted to financial advice services, where they can receive assistance with managing their payment. Ongoing engagement with survivors will continue.

14. The Scottish Ministers will be required under the Bill to establish a Survivors Forum through which survivors can contribute to the continuous improvement of the delivery of the redress scheme, to ensure the scheme does all it can to make the process as straightforward as possible for applicants and that they are well supported. The Survivors Forum will not play any part in the independent decision-making process nor have any sight of, or involvement in, individual redress applications.

Financial Implications

Overview

15. The immediate and majority of the financial implications of the Bill will fall on the Scottish Administration. The costs of administering and delivering the scheme will be paid for by the Scottish Administration. This includes the following costs:

- The set-up and running costs of Redress Scotland, including the recruitment and remuneration costs of the members who will carry out the assessment, decision-making and review functions of the scheme, will be met. There will also be a new Scottish Government division which will carry out the administrative and processing functions of the scheme.
- Redress payments are to be met wholly by the Scottish Administration but these may be partially offset by third-party contributions. For the avoidance of doubt, redress payments to survivors will not be conditional upon the receipt of third-party financial contributions. Survivors will not be penalised if the organisations responsible for their care at the time of their abuse do not financially contribute to the scheme. In those circumstances, the cost of the redress payment will be met in its entirety by the Scottish Administration.
- Funding for independent legal advice will be paid by the Scottish Administration. Applicants will have the choice of whether or not to obtain legal advice in connection with their application. The

scheme will strongly encourage applicants to take up this offer at the point of accepting a redress payment and signing the waiver. Fixed fees will be applied to legal costs to limit the legal fees expenditure.

- The costs of non-financial redress for survivors who meet the eligibility criteria for the scheme will also be met by the Scottish Administration. The scheme will ensure that survivors are offered access to counselling, acknowledgment and apology. The details concerning the delivery of the non-financial redress package will be further developed throughout the passage of the Bill and implementation of the scheme. Costs at this point are based on a number of assumptions.
- There will be financial implications on other organisations and bodies – in particular, those which are contributing financially to the scheme. Steps will be taken to make contributions affordable for organisations over time so that current services are not adversely impacted. This process will not reduce the overall contribution from organisations. Separate from any financial contributions made to the scheme, there will be other financial implications for relevant organisations and bodies, including local authorities and other care providers, both past and present. There may be a rise in the number of subject access requests and record enquiries because of the requirement on applicants to seek supporting documentation for their application. This is likely to create increased demand on other bodies, including local authorities, NHS Boards and Police Scotland. The Scottish Government has engaged with relevant bodies regarding the resource implications of potential increased demand – further detail is provided below.

16. There are a number of costs to take into consideration in the set-up and delivery of the statutory redress scheme. Estimates have been prepared and refined with the best information available, but significant uncertainties remain due to the limitations of the available data regarding the potential number of applicants to the scheme.

Methodology

17. In late 2019, the Scottish Ministers commissioned financial modelling from the Government Actuary's Department (GAD) to refine the estimates of the potential number of applicants to the redress scheme.² This modelling builds on earlier work carried out by Scottish Government analysts and takes account of additional information including: refined mortality assumptions, the experience of the advance payment scheme, and the claims experience of other redress schemes.³

18. The estimates were arrived at by estimating the number of children that were cared for while resident in a relevant care setting prior to 2014 who are still alive today (from a starting population provided by Scottish Government analysts), and estimating the application rates from this surviving population by considering the estimated application rates under the advance payment scheme, the uncertainties that surround this estimate, and likely differences in application rates for the redress scheme.⁴

19. This modelling was further refined by GAD in 2020/2021. The care settings included in the starting population provided by Scottish Government analysts were further refined to reflect the eligibility criteria under the scheme, and the cut-off date was changed to match the eligibility date under the scheme (2004). The previous analysis had covered children in care settings up to 2014, as the starting population provided by Scottish Government analysts reflected the population considered by the Scottish Child Abuse Inquiry. The new figures included in this revised Financial Memorandum more accurately reflect the estimated number of applicants to the scheme based on the eligibility criteria.

² The Government Actuary's Department (GAD) is a UK Government service that supports effective decision-making and robust reporting within government as the first choice provider of actuarial and specialist analysis, advice and assurance in a variety of areas.

³ The approach taken by SG analysts included: estimating the number of people who spent time looked after away from kin, boarded in boarding schools or in other communal settings in various periods between 1930-2014; estimating the number of people who experienced care in those settings who are alive; and estimating the proportion of those alive that might have experienced abuse. The refined mortality assumptions provided by GAD are based on mortality rates applicable to the appropriate period of an individual's lifetime (i.e. they allow for historical rates of mortality in the period from 1930-2018).

⁴ GAD originally estimated the number of applicants to be 3,000-11,000.

20. In the refined analysis sets GAD estimated the number of applicants to the scheme to be around 2,500 to 8,000. Given remaining uncertainties around how younger survivors of abuse will participate in and respond to a redress scheme, estimates are cautious when calculating the cost of the scheme.⁵ For this reason, the higher estimate is assumed, setting the current central projection of applicants to the scheme at 8,000. The central estimate using this projection is that the total cost of the redress scheme, including the delivery of the scheme, legal fees, and wider support, will be around £370 m. Three sensitivity analyses have been produced to show the effects of higher or lower application numbers than the central estimate, and the costs arising if more applicants receive higher tier payments. These sensitivity analyses set out in Tables 1-3 suggest a reasonable range could be £200 m to £400 m.

21. Assuming the scheme runs for five years, the costs would likely be incurred between 2021/22 and 2026/27 with peaks early in the scheme and as the scheme moves to close to new applications. The overall cost of the scheme has been carefully considered throughout the development and design of the scheme. This includes consideration of receiving financial contributions from other bodies, treatment of previous payments, the delivery model of the scheme, the funding of legal advice and the provision of other support, including counselling.

22. The Scottish Ministers are seeking financial contributions to the redress scheme from those who were responsible for the care of children where and when the abuse occurred, whether providing care directly or otherwise involved in the decision-making processes and arrangements by which children came to be in care. This would include, for example, an organisation which owned, managed or was otherwise connected to the relevant care settings or organisations which placed children they were responsible for in the relevant care setting. It cannot yet be confirmed if, or to what extent, these contributions will reduce the cost to the Scottish Government of the redress scheme. The offset of these costs cannot, therefore, be included within this document. However, for transparency purposes the Bill requires that the Scottish Ministers publish the details of contribution amounts and any revisions to those. This will allow survivors and other interested parties to be sighted on the extent of an organisation's contribution as the scheme progresses.

⁵ GAD's analysis was partially based on the experience of the advance payment scheme, which is exclusively for those age 68 and above and the terminally ill.

Costs on the Scottish Administration

23. There will be significant cost implications for the Scottish Administration including costs associated with the establishment and delivery of the scheme, redress payments, reimbursement of legal fees, and non-financial redress. The costs for each element are set out below. The amount of financial contributions received from other organisations will mitigate the total cost to the Scottish Administration. However, as noted above, the extent of any offset costs may not be known until the scheme is in operation.

Redress payments

Payments to survivors

24. The current central projection for total costs of redress payments (excluding administration and associated costs) is around £284 m, based on an average payment in the region of £35,500 per applicant (estimated at 8,000 applicants).

25. The payment levels for survivors are set out below:

Fixed rate redress payment	£10,000
Individually assessed payment levels (IAP)	
Level 1	£20,000
Level 2	£40,000
Level 3	£60,000
Level 4	£80,000
Level 5	£100,000

26. It is likely that most applicants will choose to apply for the individually assessed payment, rather than the fixed rate payment. This is consistent with the experience of the Lambeth scheme (which also adopts a combination payment approach).⁶ However, given the broad range of individual abuse experiences, across different settings, and over many decades, it is possible that not all applications for an individually assessed payment will satisfy the decision-making panel that they meet the required threshold above the level of a fixed rate payment. For planning purposes it is forecast that around 85% of applicants to the scheme will meet that threshold at a minimum and receive an individually assessed payment. This is broadly based on the experience of other redress schemes.

27. Building on the experience of other redress schemes, the following assumptions in terms of distribution of claims are set out below. It is anticipated that only the most severe experiences of abuse would attract a payment of £100,000, with these payments being the smallest proportion of the overall redress payments made. The largest proportion of payments is most likely to be £20,000 followed by a smaller proportion of payments at £40,000. This approach is supported by the experience of claims distribution in other schemes.⁷

28. Distribution of claims will be determined by the criteria within each level of the assessment framework. Each level will include criteria based on a number of factors, which are contained in the Bill and further discussed in the Policy Memorandum. Estimating the distribution of claims is a necessary part of estimating the overall costs of the redress scheme. However it must be noted that this is a forecast and not a target or a quota. Each application will be decided on its own merits. The distribution of redress payments is challenging to predict due to the limited information available on the types and severity of abuse experienced by survivors in relevant settings. The Scottish Ministers will fund the payments regardless of the actual distribution of claims that occurs.

⁶Lambeth Children's Homes Redress Scheme Update (September 2019)
<https://modern.gov.lambeth.gov.uk/documents/s108400/Cabinet%20Report%20-%20Redress%20Scheme%20update%20September%202019%20-%20FINAL.pdf>

⁷ The Irish Redress Scheme sets out the distribution of the awards made under their scheme within their 2016 Annual Report found at: <https://www.rirb.ie/annualReport.asp> (page 25)

29. The central projections are for 8,000 applications, distributed between payment levels on the following pattern:

Table 1: Illustrative distribution of claims for statutory scheme (scenario 1: central projection)

Payment level	Payment	Anticipated distribution	Anticipated recipients	Illustrative cost of payments
Fixed rate payment	£10,000	15%	1,200	£12 m
IAP Level 1	£20,000	35%	2,800	£56 m
IAP Level 2	£40,000	30%	2,400	£96 m
IAP Level 3	£60,000	10%	800	£48 m
IAP Level 4	£80,000	5%	400	£32 m
IAP Level 5	£100,000	5%	400	£40 m
Total			8,000	£284 m

Sensitivity analyses

30. Although a range of data and other schemes have been considered to inform these figures, there remains uncertainty in the actual claims and costs that will arise. Relatively small changes to the number of applications or the average payment level can have significant impacts on the overall cost of the scheme. Costs have been assessed based on application numbers which are +/-30% of the central projections, and further assessments have been carried out to show costs if more applications receive higher awards than is currently envisaged.

Table 2: Illustrative distribution of claims for statutory scheme (scenario 2: -30% applications)

Payment level	Payment	Anticipated distribution	Anticipated recipients	Illustrative cost of payments
Fixed rate payment	£10,000	15%	840	£8.4 m
IAP Level 1	£20,000	35%	1,960	£39.2 m
IAP Level 2	£40,000	30%	1,680	£67.2 m
IAP Level 3	£60,000	10%	560	£33.6 m
IAP Level 4	£80,000	5%	280	£22.4 m
IAP Level 5	£100,000	5%	280	£28 m
Total			5,600	£198.8 m

Table 3: Illustrative distribution of claims for statutory scheme (scenario 3: +30% applications)

Payment level	Payment	Anticipated distribution	Anticipated recipients	Illustrative cost of payments
Fixed rate payment	£10,000	15%	1,560	£15.6 m
IAP Level 1	£20,000	35%	3,640	£72.8 m
IAP Level 2	£40,000	30%	3,120	£124.8 m
IAP Level 3	£60,000	10%	1,040	£62.4 m
IAP Level 4	£80,000	5%	520	£41.6 m
IAP Level 5	£100,000	5%	520	£52 m
Total			10,400	£369.2 m

Table 4: Illustrative distribution of claims for statutory scheme (scenario 4: higher average payments)

Payment level	Payment	Anticipated distribution	Anticipated recipients	Illustrative cost of payments
Fixed rate payment	£10,000	10%	800	£8 m
IAP Level 1	£20,000	20%	1,600	£32 m
IAP Level 2	£40,000	30%	2,400	£96 m
IAP Level 3	£60,000	25%	2,000	£120 m
IAP Level 4	£80,000	10%	800	£64 m
IAP Level 5	£100,000	5%	400	£40 m
Total			8,000	£360 m

31. Based on scenario one, the estimated distribution would provide a total illustrative cost for redress payments of around £284 m, with an average payment per survivor in the region of £35,500. The costs throughout this document are based on this overall figure. Tables 2-4 demonstrate examples of the impact on costs associated with the redress scheme, should the number of applications or the distribution of redress payments be different to that currently projected.

32. Anticipated costs arising from the redress scheme are based on the central projection of 8,000 applicants to the scheme, and the potential distribution of redress payments as set out in Table 1. Anticipated costs in relation to the administration, staffing and associated costs to deliver the redress scheme are also based on that central projection, as are the costs anticipated by other bodies. It should be noted throughout this document

that there remains significant uncertainty in relation to how many survivors of abuse may apply to the scheme, the level of redress payment assessed as being appropriate for them, and therefore the overall distribution of redress payments across the different payment levels. Any significant change from the anticipated number of applicants, or distributions of payments, would lead to significant changes in costs in relation to all matters connected with the Bill.

33. In relation to the provision on applicants with specified criminal convictions, it is not possible to assess the impact of this provision on survivor, next of kin and nominated beneficiary redress payments as determinations will be made on a case by case basis. The threshold is set deliberately high and where the provision is triggered, there is no automatic presumption that a redress payment will not be made, simply that a process of further consideration must be carried out. Where a redress payment is not offered, eligible applicants will still be offered access to non-financial redress, such as counselling. Further detail on the treatment of applicants with serious criminal convictions is included in the Policy Memorandum.

Next of kin payments

34. Next of kin meeting the eligibility criteria will receive a relevant share (divided among the next of kin in the case of children) of the fixed rate payment of £10,000. This is in line with the view of the majority of respondents to the consultation who stated their preference for the next of kin payment to be 100% of the fixed rate payment. Eligibility for a next of kin payment will only arise where the survivor died on or after 1 December 2004. The date of 1 December 2004 marked the apology made by the then First Minister Jack McConnell, when Scotland began to face up to its past, and when it was considered that widespread improvements had occurred in the care system.⁸ From this date, it is considered that survivors and their families would have had a reasonable expectation that a financial redress scheme would be established by the Scottish Government.

35. The purpose of a next of kin payment is to recognise and acknowledge that the survivor died without having had the opportunity to receive a redress payment. Spouses, civil partners, cohabitants or surviving children may apply for a next of kin payment. One payment will be

⁸ <https://www.parliament.scot/parliamentarybusiness/report.aspx?r=4546&mode=pdf>

paid per survivor and the claims of spouses, civil partners, and cohabitants will be preferred (with a cohabitant being defined to mean one of at least 6 months' duration). Only where there is no spouse, civil partner or cohabitant will surviving children be permitted to apply. In the case of spouses, civil partners or cohabitants, they will be entitled to a payment at the fixed rate payment of £10,000. In the case of surviving children, the payment of that sum will be shared equally among surviving children.

36. GAD has provided estimates as to how many next of kin applications can be anticipated. This range was arrived at by estimating the number of children that were cared for in an eligible residential setting prior to 2004 who have survived to the cut-off-date (1 December 2004) using the same assumptions and data as set out in the methodology section above, and then estimating the number of deaths from the cut-off date up to the assumed closure of the scheme in 2026.⁹ GAD then estimated how many of these would have made a claim if they had survived to do so, by applying the same application rates as used to estimate survivor applicant numbers (but note that there are a number of reasons that application rates might be lower). Finally, GAD estimated the proportion that have surviving next of kin. Using this approach, GAD estimate that between 840 and 2490 next of kin applications can be expected.¹⁰ It cannot be predicted how many survivors will have disclosed their abuse to their next of kin, an important factor that may impact the number of next of kin applications the scheme receives. For this reason an estimate of 1,500 next of kin applications has been adopted. This results in a total estimated cost of £15 m for next of kin redress payments.

Consideration of previous payments

37. There are a number of scenarios in which a survivor may have previously received a payment from another source in respect of the same abuse that is eligible for redress under the statutory scheme. These include: damages awarded by a civil court; out of court settlements or other payments such as *ex gratia* payments; compensation from the Criminal Injuries Compensation Authority 'CICA'; and advance payment scheme payments.

⁹ Based on past and projected mortality rates.

¹⁰ Figures represent the numbers of potential next of kin applicants in relation to survivors of child abuse who have or who are expected to have died from 2004-2026 to take account of those who may die throughout the duration of the scheme.

38. Those who have previously received a payment in respect of their abuse will remain eligible for the scheme, but the corresponding amount from any previous payment will be deducted from any redress payment offered. The Bill provides mechanisms for the identification of previous payments. This approach fairly and effectively respects the principle that a person should not be compensated twice for the same matter. However, crucially, it does not deny any survivor the right to apply for an enhancement on that previous payment, where it was lower than that offered by the statutory scheme, or access to non-financial elements of redress offered by the scheme.

39. The Bill provides that the Scottish Ministers may increase the redress payment amounts to account for inflation but is not more prescriptive in requiring them to do so. This recognises that inflation may not be a significant issue over a short period of time and seeks to avoid unnecessary complexity whilst allowing the flexibility for adjustment should it become appropriate.

40. The impact of considering previous payments on the reduction in the overall cost to the Scottish Administration is unknown at this time, and therefore, the impact of this has not been included in the overall estimates of costs.

Legal fees

41. The redress scheme provides an opportunity for all applicants to access free legal advice. This includes survivors, next of kin and nominated beneficiaries. An applicant may choose whether they apply for redress with or without legal representation. Whilst access to free legal advice will be available throughout the application process, applicants will be strongly encouraged to obtain independent legal advice, including when they first establish contact with Redress Scotland and again before signing a waiver.

42. Fees for legal work reasonably undertaken on behalf of applicants to the redress scheme will be funded by the scheme. However, lessons are being learned from other redress schemes in which legal costs have escalated and been subject to criticism. The legal fees provisions intend to prevent this from occurring, as the majority of money should be spent on redress payments to survivors. It is crucial to respect the importance of independent legal advice for survivors whilst providing clarity to those providing that advice as to the arrangements which will apply.

43. The Bill provides for a simplified system of fixed fees. Benefits of this approach include ease of account preparation and payment administration, help with surety around spend, and reduced potential for account abatement issues, challenge and protracted reviews. Solicitors are familiar with a fixed fee approach across many areas of legal aid funding and within the Scottish Compulsory Pre-Action protocol for Personal Injury Claims.

44. The Bill does contain two important safeguards within the overall approach of fixed fees. The first is a mechanism to ensure greater consideration is given where it is thought that work may not have reasonably been undertaken. These cases will be referred to Redress Scotland for a decision before any fixed fee is paid. The second is to ensure that additional provision can be made for those cases in which advice and assistance, over and above that encompassed within the fixed fee, is necessary. The provisions within the Bill retain an element of flexibility as solicitors may apply for a bespoke assessment to be carried out in cases where there are exceptional or unexpected circumstances which the solicitor believes may justify the payment of an additional sum.

45. A number of indicative examples of what the level of fixed fees offered may look like are included below. However, these models are illustrative only and the levels remain under consideration pending continued engagement with relevant bodies. They also do not include any estimation of fees paid in addition to the fixed fees, where additional sums have been requested and approved for applications involving exceptional and unexpected circumstances.

Table 5: Illustrative legal fee costs – potential structure 1

Payment type	Legal fee ceiling limits	Number of applicants	Total illustrative cost (based on 100% uptake of legal advice funding)
Fixed rate payment or next of kin payment	£350 + VAT	2,300 (10% of survivor applicants (800) and all next of kin applicants (1500))	£1.0 m
Individually assessed payment (where threshold for an IAP Level 1-5 is not met)	£350 + VAT	400 (5% of survivor applicants)	£0.2 m
Individually assessed payment (where threshold for an IAP Level 1-5 is met)	£1000 + VAT	6,400 (80% of survivor applicants)	£7.7 m
Reviews	£250 + VAT (additional to application legal fees)	2850 (30% review rate including NOK applications)	£0.9 m
Total cost			£9.8 m

Table 6: Illustrative legal fee costs – potential structure 2

Payment type	Legal fee ceiling limits	Number of applicants	Total illustrative cost (based on 100% uptake of legal advice funding)
Fixed rate payment or next of kin payment	£450 + VAT	2,300 (10% of survivor applicants (800) and all next of kin applicants (1500))	£1.2 m
Individually assessed payment (where threshold for an IAP Level 1-5 is not met)	£450 + VAT	400 (5% of survivor applicants)	£0.2 m
Individually assessed payment (where threshold for an IAP Level 1-5 is met)	£2000 + VAT	6,400 (80% of survivor applicants)	£15.4 m
Reviews	£250 + VAT (additional to application legal fees)	2850 (30% review rate including NOK applications)	£0.9 m
Total cost			£17.7 m

Table 7: Illustrative legal fee costs – potential structure 3

Payment type	Legal fee ceiling limits	Number of applicants	Total illustrative cost (based on 100% uptake of legal advice funding)
Fixed rate payment or next of kin payment	£450 + VAT	2,300 (10% of survivor applicants (800) and all next of kin applicants (1500))	£1.2 m
Individually assessed payment (where threshold for an IAP Level 1 -5 is not met)	£450 + VAT	400 (5% of survivor applicants)	£0.2 m
Individually assessed payment (where threshold for an IAP Level 1 is met)	£1000 + VAT	2,800 (35% of survivor applicants)	£3.4 m
Individually assessed payment (where threshold for an IAP Level 2 is met)	£2000 + VAT	2,400 (30% of survivor applicants)	£5.8 m
Individually assessed payment (where threshold for an IAP Level 3 is met)	£3000 + VAT	800 (10% of survivor applicants)	£2.9 m
Individually assessed payment	£4000 + VAT	400 (5% of survivor applicants)	£1.9 m

(where threshold for an IAP Level 4 is met)			
Individually assessed payment (where threshold for an IAP Level 5 is met)	£5000 + VAT	400 (5% of survivor applicants)	£2.4 m
Reviews	£250 + VAT (additional to application legal fees)	2850 (30% review rate including NOK applications)	£0.9 m
Total cost			£18.7 m

46. For the purposes of the Financial Memorandum, the illustrative costs of potential structure 2 are assumed. This means that the legal fee costs for the scheme would have an average annual cost of £3.5 m, and an overall scheme cost of approximately £17.7 m over five years.

Implementation and delivery

47. The scheme will be delivered by a Non-Departmental Public Body (NDPB), “Redress Scotland”, (carrying out decision-making and review functions) and a Scottish Government division (carrying out administrative and processing functions). To take account of the additional start-up costs, a higher cost at the beginning of the scheme is presumed. It is important to note that the operational detail of the scheme is to be further developed, which may later impact on the estimates provided below.

48. The summary in Table 8 below sets out net costs on the Scottish Administration for setting up Redress Scotland and a Scottish Government division. Where there is a margin of uncertainty, potential costs are set out as a range representing likely cost floors and cost ceilings. These ranges arise mostly from uncertainties regarding staff numbers required to deliver the scheme in an efficient way when the number of applications expected is so uncertain. For Redress Scotland, a minimum of 16 staff (including 9 public appointees) and a maximum of 20 staff (including 13 public

appointees) have been provided for. It has been assumed that the Scottish Government division will have a minimum of 38 staff and a maximum of 51 staff at its peak. These estimates are sensitive to fluctuation depending on the number and complexity of applications received.

49. The estimates below set the total cost of implementing and delivering the scheme at £26 m to £36 m.

Table 8: Net costs of implementation and delivery

Costs	Low/High	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	Total cost
One-off costs	Low	£1.25 m	£1.72 m	0	0	0	0	0	£2.97 m
	High	£1.66 m	£2.09 m	0	0	0	0	0	£3.76 m
Recurring costs	Low	0	£2.63 m	£4.42 m	£4.10 m	£4.04 m	£4.28 m	£3.51 m	£23.01 m
	High	0	£3.87 m	£6.41 m	£5.61 m	£5.52 m	£5.85 m	£4.72 m	£31.99 m
Total	Low	£1.25 m	£4.36 m	£4.24 m	£4.10 m	£4.04 m	£4.28 m	£3.51 m	£25.98 m
	High	£1.66 m	£5.96 m	£6.41 m	£5.61 m	£5.52 m	£5.85 m	£4.72 m	£35.75 m

50. The further detail presented below provides a breakdown of the costs resulting from the Bill.

One-off programme costs

51. There are a number of one-off programme costs associated with the creation of Redress Scotland and a Scottish Government division, occurring between 2020/21 and 2021/22 to ensure that the redress scheme can open for applications as soon as possible. High and low estimates have been provided to take account of the uncertainties surrounding the staffing numbers and estates considerations for both the Scottish Government division and Redress Scotland. The overall one-off programme costs range from £2.97 m to £3.76 m.

Table 9: One-off programme costs

One-off programme costs	Low/high Estimates	2020/21	2021/22	Total
Recruitment and staffing	Low	£0.57 m	£1.48 m	£2.06 m
	High	£0.57 m	£1.75 m	£2.33 m
ICT and digital	Low	0	£0.14 m	£0.14 m
	High	0	£0.21 m	£0.21 m
Estates	Low	£0.62 m	0	£0.62 m
	High	£1.02 m	0	£1.02 m
Corporate services	Low	£0.04 m	£0.03 m	£0.07 m
	High	£0.05 m	£0.04 m	£0.09 m
Communications and engagement	Low	0	£0.04 m	£0.04 m
	High	0	£0.07 m	£0.07 m
Miscellaneous	Low	£0.01 m	£0.01 m	£0.02 m
	High	£0.01 m	£0.02 m	£0.03 m
Total one-off costs	Low	£1.25 m	£1.72 m	£2.97 m
	High	£1.66 m	£2.09 m	£3.76 m

Recruitment and staffing costs

52. These costs cover the one-off costs incurred as part of establishing Redress Scotland and a Scottish Government division. They include the costs of Scottish Government staff working on the programme to establish the new organisations and design the redress scheme's operational processes. They do not include staffing costs for the new organisation or Scottish Government division themselves; these costs are included in recurring costs.

ICT and digital

53. ICT one-off costs include costs of providing secure IT accounts and basic hardware and software for both Redress Scotland and the Scottish Government division. The costs are based on standard costs per user for the Scottish Government's own IT system.

Estates

54. A building or buildings for Redress Scotland and a Scottish Government division have not yet been identified. Therefore, these estimates are based upon indicative costs to accommodate organisations of the proposed size and location including furniture, design, fit-out works, legal fees, and security works. This is calculated on a per head basis.

Opportunities to make use of spare capacity within the existing Scottish Government estate or to co-locate with other public bodies are also being explored.

Corporate services

55. These estimates assume that Redress Scotland will enter into shared service agreements with the Scottish Government or another public body for the provision of payroll, human resources, finance, and procurement services. There will also be shared service costs for the Scottish Government division, even though it will be part of the Scottish Government. Costs are drawn from standard Scottish Government rates for services. Further detail on the provision of corporate services is provided in the recurring costs section below.

Communications and engagement

56. One-off costs of between £0.04 m and £0.07 m are included for developing branding for Redress Scotland, establishing its website, and updating Scottish Government websites to host guidance and application forms to facilitate applications to the redress scheme. This cost range is based upon the branding and website costs incurred by other new public bodies.

Miscellaneous

57. These figures represent travel and subsistence, training, and office costs for staff working on the programme to establish the new organisation and design the redress scheme's operational processes. They also include funds to cover the costs of engagement sessions with survivors of historical child abuse in care to facilitate the design of accessible, trauma-informed application forms and guidance materials

Recurring costs

58. Table 10 below estimates the annual running costs for Redress Scotland and a Scottish Government division for the anticipated five-year duration of the scheme (which falls across six financial years). The high and low ranges are provided to account for uncertainty over exact staffing numbers. As well as impacting direct staffing costs, this uncertainty impacts other cost categories such as ICT and corporate services.

Table 10: Recurring costs of scheme delivery

Annual running costs	Low/ High	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	Total cost
Staffing	Low	£0.61 m	£2.65 m	£2.73 m	£2.81 m	£2.89 m	£2.25 m	£13.95 m
	High	£0.78 m	£3.37 m	£3.47 m	£3.57 m	£3.67 m	£2.80 m	£17.68 m
ICT and digital	Low	£1.30 m	£0.58 m	£0.18 m	£0.18 m	£0.18 m	£0.18 m	£2.63 m
	High	£2.00 m	£1.10 m	£0.21 m	£0.21 m	£0.21 m	£0.20 m	£3.92 m
Estates ¹¹	Low	£0.58 m	£0.58 m	£0.59 m	£0.45 m	£0.61 m	£0.62 m	£3.45 m
	High	£0.81 m	£0.81 m	£0.82 m	£0.63 m	£0.86 m	£0.87 m	£4.81 m
Corporate services	Low	£0.027 m	£0.13 m	£0.13 m	£0.13 m	£0.12 m	£0.10 m	£0.64 m
	High	£0.033 m	£0.16 m	£0.16 m	£0.16 m	£0.16 m	£0.12 m	£0.81 m
Contracted-out services	Low	£0.065 m	£0.26 m	£0.26 m	£0.26 m	£0.26 m	£0.19 m	£1.30 m
	High	£0.17 m	£0.68 m	£0.68 m	£0.68 m	£0.68 m	£0.51 m	£3.41 m
Communications and engagement	Low	£0.02 m	£0.09 m	£0.09 m	£0.09 m	£0.09 m	£0.06 m	£0.45 m
	High	£0.02 m	£0.09 m	£0.09 m	£0.09 m	£0.09 m	£0.06 m	£0.45 m
Miscellaneous	Low	£0.02 m	£0.11 m	£0.11 m	£0.11 m	£0.11 m	£0.08 m	£0.57 m
	High	£0.04 m	£0.17 m	£0.17 m	£0.17 m	£0.17 m	£0.13 m	£0.89 m
Total recurring costs	Low	£2.63 m	£4.42 m	£4.10 m	£4.04 m	£4.28 m	£3.51 m	£23.01 m
	High	£3.87 m	£6.41 m	£5.61 m	£5.52 m	£5.85 m	£4.72 m	£31.99 m

¹¹ The estimated Estates cost for 2024/25 is lower than for other financial years because a six-month 'rent holiday' has been factored into the calculations. This is a typical feature of commercial lease agreements to incentivise a tenant not to exercise a lease break at the five-year mark in an overall ten-year lease term.

Staffing

59. It has been assumed that Redress Scotland will have between 16 and 20 staff, including a Chief Executive. This complement will comprise a Chair, between eight and 12 Board members (who, alongside the Chair, will make decisions on redress applications), and seven secretariat staff. The Chair and the panel members will be paid on day rates in line with the Scottish Government's public sector pay policy for senior appointments which covers the remuneration paid to chairs and members appointed by the Scottish Ministers to public bodies.

60. To preserve the independence of decision-making, Redress Scotland's seven secretariat staff will not be civil servants; however the intention will be to employ them on terms and conditions which are analogous to Scottish Government terms and conditions, and salaries comparable to those for Scottish Government employees. Mirroring Scottish Government HR policies in this way will enable Scottish Government HR to provide shared services provision to Redress Scotland.

61. Staff costs for the Scottish Government division have been estimated on the basis of between 38 and 51 full time equivalent staff within a Scottish Government division carrying out case work, administration, and business performance management. This revised Financial Memorandum estimates that staff costs will increase by 3% per annum in order to provide an indication of how costs may increase over time. A small sponsorship unit for Redress Scotland has also been factored into the staffing costs.

62. The range in the estimated numbers of staff reflects the uncertainties that remain regarding the detailed design of operational processes and number of applications anticipated. Implementation processes and service design development is still in progress. The Parliament will be updated on progress throughout the passage of the Bill.

ICT and digital

63. Figures for ongoing provision and maintenance of hardware and software are based on the cost of both Redress Scotland and a Scottish Government division using the Scottish Government's own SCOTS IT service. The estimates include the costs of computers, printers, phones, and mobile devices. Figures also include estimated costs associated with the development and continuous improvement of a case management system (including licences, hosting, configuration, maintenance, and

technical support), with technology and services to be procured from private sector suppliers. Forecast costs for the case management system have been recently refined following an options appraisal exercise and development of a procurement strategy.

Estates

64. Ongoing estates costs include rent, rates, service charges, landlord service charge, internal repairs, cleaning, and utilities. These estimates are calculated on a per head basis, taking into consideration varying staffing numbers and locations.

65. For the purposes of the estimates, a ten-year lease with a break clause after five years has been assumed. This option has been recommended by Scottish Government Estates. This is a common practice in the commercial property market and will be acceptable to the majority of landlords. This position allows flexibility to terminate should it be needed in the fifth year, while providing the option to continue occupation for the full ten years should it be required. There may be options to utilise the space for other departments needing short-term options towards the end of the lease if the scheme no longer requires the property prior to the end of the contract. However, these options will be assessed nearer the time.

Corporate services

66. Corporate services include finance, HR, payroll, procurement, and internal and external audit. As part of the programme to establish Redress Scotland and a Scottish Government division, work will be taken forward to identify the value for money of using existing shared service providers for corporate services as far as is appropriate. The estimates given for these figures are calculated based on the cost of using the Scottish Government's own shared services provision.

Contracted-out services – support for applicants

67. Many applicants will require support to apply to the scheme, over and above legal advice. The nature and level of support required will vary and the scheme will need to be responsive and flexible in its response to those needs. This could include literacy, practical support, psychological support, and help to find records or evidence to support the individual's application.

68. This support will be funded by the Scottish Administration. More detail on the provision and likely cost of psychological support is provided in the section on non-financial redress. Understandably, some applicants will require such support while making their application and others will wait until the process has been finished and they have received their redress payment.

Contracted-out services - accessibility

69. Significant efforts are required to ensure equality of access to the scheme and to minimise the barriers to applying for all applicants. Relationships are being built with partners to ensure the process is as accessible as possible. Alternative formats of application forms and information guides will be available for all who need them. This includes translations, including British Sign Language (BSL) and Braille, and easy-read versions. It is difficult to estimate the cost of accessible formats due to the unknowns associated with the characteristics of the eligible survivor population. To ensure all applicants with varying needs are supported, £0.02 m has been allotted to accessibility requirements per annum. However, expenditure will depend on the needs of the applicants.

Contracted-out services - psychological assessments

70. Psychological assessment will be available as a form of supporting documentation for applicants applying to the scheme. There are considerable costs attached to psychological assessments due to the level of expertise required to carry out the assessments and write the corresponding report. Estimates are based on a range of scenarios with each involving a psychological assessment at an hourly rate of £110, with each assessment taking 6 hours, including the production of the report.

Table 11: Psychological assessment costing scenarios

Scenario	No. of applicants	Cost per assessment	Overall cost
1. 10% of all applicants	800	6 hours x £110	£0.53 m
2. 30% of all applicants	2,400	6 hours x £110	£1.58 m
3. 50% of all applicants	4,000	6 hours x £110	£2.64 m
4. 70% of all applicants	5,600	6 hours x £110	£3.70 m

71. Based on the 50% uptake scenario, the cost of psychological assessments is estimated at £2.64 m over five years (average annual cost of £0.528 m). Should the uptake of psychological assessments be higher or lower than the assumed 50% scenario, the costs associated will increase or decrease accordingly.

Contracted-out services - record assistance

72. Some survivors will require specialist support to access and understand the social work and care records that will support their application. The need for support is influenced by individual needs and circumstances, as well as the complexity of the record search. There are specialist agencies which help survivors access and understand their records for the advance payment scheme. Consideration is ongoing as to the best way to offer assistance with records and support.

73. These specialist agencies deliver their record service through experienced and qualified social work staff. It is difficult to map the volume and duration of individual cases as there are a number of influencing factors: the particular care setting and circumstances, the time period when the applicant was in care, the availability of records, how long an organisation takes to respond, and finally, whether the survivor's circumstances affect whether they can sustain and manage the necessary contact with the agency to complete the process. Beyond securing the information, sensitive trauma-informed working is required for the 'sharing of files' and support to go through the information received with survivors. Again this support can vary from limited, up to more intensive, in line with individual need and choice.

74. Due to the varying needs and circumstances of each individual it is difficult to estimate the demand the scheme may experience for record assistance and support. The estimate of an annual spend of approximately £0.09 m would support a proposal to fund three FTE staff to undertake records work across the lifespan of the scheme including pension and national insurance contributions. Therefore, it is estimated that the overall cost of record assistance and support will be an average annual cost of £0.135 m and a total cost of £0.675 m over five years.

Communications and engagement

75. A robust awareness-raising and engagement strategy will be put in place to support the launch of the scheme, building on the methods used to promote redress work to date for both the pre-legislative consultation and the advance payment scheme. This will be informed by continuing engagement with, and learning from, relevant organisations working with survivors such as Future Pathways and others, who can support and coordinate engagement with survivors. Building on established and meaningful networks, including international contacts with links with survivors, an effective website and media campaign for both the launch and lifespan of the redress scheme will be planned. Some survivors will appreciate the opportunity to attend information sessions to find out more about the scheme, which was a valuable method used during the pre-legislative consultation exercise. However, it is recognised that other ways to reach and include survivors who do not use the internet, or are not linked to existing survivor networks, need to be considered.

76. A Survivors Forum will be established to ensure the needs and perspectives of survivors are reflected in the redress scheme's implementation processes and delivery. Further consideration will be given as to how this Forum will operate and communicate. Once the details of the Survivor Forum have been developed, more accurate costings can be produced. The scheme envisages an overall cost of £0.45 m for communications and engagement activity across the lifespan of the scheme, with more being spent leading up to the launch of the scheme and within the last year of the scheme to ensure maximum engagement and awareness-raising with survivors in the UK and beyond. Consultation will continue with the Review Group and survivor organisations for advice on how to reach as many survivors as possible to ensure they have the opportunity to apply to the scheme. For example, information events may be held so that survivors can find out more about applying to the scheme, produce written materials that can be distributed through established

networks and in places such as Citizens Advice offices, libraries and health centres, and make announcements in local press or radio stations.

Miscellaneous

77. These figures represent travel and subsistence, training, support and office costs for all Redress Scotland, Scottish Government division, and Redress Scotland sponsorship unit employees.¹² This category also includes estimated costs associated with design and printing of application packs, and postage. Redress Scotland will be expected to account for all costs, including minor items of spend, in its annual report. Applicants will be able to apply for reimbursement of any reasonable costs incurred as part of the application process. These costs are included in this section.

Non-financial redress

78. The establishment of the financial redress scheme creates an opportunity to consider the non-financial redress elements that are made available to survivors of historical child abuse in care. In addition to financial redress, and in common with other schemes elsewhere, provision of a wider package of redress is intended. This will require further engagement with survivors but is likely to include acknowledgement, apology, and support. Schemes elsewhere indicate that these non-financial element costs can be significant.¹³

Counselling and therapeutic support

79. As part of a package of non-financial redress it is intended to offer applicants access to counselling and therapeutic support. Counselling is

¹² The sponsorship unit will act as the link between Redress Scotland and the Scottish Ministers. A Framework Document will formally set out the relationship between Redress Scotland, the Scottish Ministers and officials.

¹³ ROI Scheme - "The ROI scheme has spent an estimated €176m on health, counselling and other services (McCarthy, 2016)". McCarthy, S. (2016). Comptroller and Auditor General Special Report: Cost of Child Abuse Inquiry and Redress. Report No. 96. Retrieved from: <https://www.audit.gov.ie/en/Find-Report/Publications/2017/Special-Report-96-Cost-of-Child-Abuse-Inquiry-and-Redress.pdf>

Jersey Scheme: "The Jersey scheme allocated an additional £150,560 that was held by the scheme lawyers so that claimants could receive therapeutic services, as at end April 2015 they had spent £135,560 on therapeutic services. Unused therapy monies remained the property of the States of Jersey (States of Jersey, 2016)." States of Jersey (2016) Compensation for looked after children (FOI).

typically a core component of other financial redress schemes. Any counselling provided will be provided by accredited counsellors (British Association for Counselling and Psychotherapy (BACP) or Counselling and Psychotherapy in Scotland (COSCA)).

80. This type of support is currently commissioned for survivors of abuse in care by Future Pathways.¹⁴ While it is not yet known whether support for redress applicants will be commissioned through Future Pathways, its current provision has been considered. Future Pathways indicates the cost for its commissioned counselling type services is, on average, £55 per hour. This can vary depending on the qualifications of the professional delivering the service, type of provision itself, and the area of the country being serviced. It is important to acknowledge the range of techniques and approaches encompassed by the term counselling but this is generally a talking therapy typically delivered in a face-to-face session.

81. Some survivors will already be linked into counselling provision, either privately or through local third sector or NHS provision, much of which is time-bound or limited in the number of sessions that someone may need to access as not all support will relate directly to complex trauma. Some survivors may seek counselling through traditional routes, i.e. their local GP and community mental health service. Taking account of this, along with the variable individual need for counselling, it can be assumed that not all redress applicants will choose to take up the offer of counselling. In schemes elsewhere, where data is available, it is suggested that 50% to 75% of eligible applicants go on to receive counselling but this will be influenced by a number of contextual factors. The duration that someone will engage in counselling is also difficult to establish and will vary depending on individual need and complexity. Short term support, for example 12–24 sessions, may be suitable for some, but others may require longer term interventions up to a year and beyond. The following scenarios can be presented to give illustrated costs of funding counselling across the lifespan of the scheme:

¹⁴ Future Pathways supports people who were abused or neglected as children while they were living in care in Scotland. It is supported by funding from the Scottish Government and is managed by an alliance of organisations to oversee the fund and make sure it is reaching as many people as possible. It was set up in 2016.

Table 12: Scenarios and estimated costs of counselling and therapeutic support

Scenario	Average cost (per hour)	Number of sessions	Uptake based on 8,000 applicants (number of applicants)	Total cost (6 years – 5 year lifespan plus 12 months after final payments)
1. 50% uptake for 1 year of counselling	£55	52	50% (4,000)	£11.4 m
2. 75% uptake for 1 year of counselling	£55	52	75% (6,000)	£17.2 m
3. Future Pathways experience (assuming 75% uptake overall) (half of applicants accessing short-term support, and half accessing long-term support)	£55	52	37.5% (3,000)	£10.6 m
		12	37.5% (3,000)	

82. These scenarios provide an illustrative range of estimates for providing counselling to applicants of the scheme. The range is between £10 m and £17 m across the lifespan of the scheme, allowing an additional 12 months following the final payments and closure of the scheme, with a central estimate of £14 m over six years (and average of £2.3 m per annum).

Alternative and additional methods of delivery for counselling

83. Due to the complexity of the impact of childhood abuse, the need for counselling can manifest at different points for different reasons. As indicated previously, some survivors may only want short term counselling support at certain stages or under certain circumstances. Through the application for redress, some survivors may not only require a reduced

number of sessions but may request telephone counselling support, either as an interim support or as an alternative to face-to-face sessions. Whilst this methodology would not work for every survivor, for some this may be a preferable option.

84. A leading charity working with survivors currently provides a trauma counselling phone line, including the offer of weekly sessions for adults who experienced abuse in childhood (not necessarily in-care abuse). Considering the experience of this service to date and the possibility of either increasing existing provision in some way or establishing a similar service, it can be assumed that, like face-to-face counselling, this method of delivery will only be chosen by some survivors. The charity shared that 75% of those who call the service sign up to counselling sessions. By using information from current service experience, illustrative costs are provided, based on scaling up similar provision by half, resulting in 40 sessions per week being available for survivors:

Table 13: Illustrative telephone counselling costs

Item	Cost (per annum)	Overall cost (6 years – 5 year lifespan plus 12 months after final payments)
Counsellors and staffing	£95,000	£570,000
Clinical supervision	£8,000	£48,000
Other operating costs (premises, overheads, etc)	£27,000	£162,000
Total cost	£130,000	£780,000

85. Further engagement will continue to establish the details of the delivery of this service.

Acknowledgment

86. The National Confidential Forum was established by the Victims and Witnesses (Scotland) Act 2014 and provides an acknowledgment function by offering a safe and confidential space where survivors can share their experiences. The Bill will bring the Forum to an end, by repealing relevant sections of the 2014 Act. Since the forum opened, a number of developments have taken place in relation to the experience of institutional care in Scotland, and low numbers are now taking up the opportunity of

participating in the Forum. These developments include the Scottish Child Abuse Inquiry (SCAI), Future Pathways and the financial redress scheme. The closure of the Forum will provide the Scottish Administration a saving of £875,000, the budget currently allocated to the National Confidential Forum. This budget line will cease at the end of the financial year 2020/21.

87. Financial payments and apology are also viewed by some survivors as delivering a form of acknowledgement. Some applicants to the scheme will already have taken part in the Scottish Child Abuse Inquiry, the National Confidential Forum, or both. However, this is a complex area and the opportunity for some survivors to be able to share their experience and to feel that has been heard will remain an important function for the scheme to consider. What acknowledgment might look like and how it might be delivered requires further consideration with survivors, providers and current services. Until options for delivery are developed, costs for the acknowledgment function cannot be fully costed.

Apology

88. The Apologies (Scotland) Act 2016 came into force in December 2016 and redress schemes typically deliver apology. For example, the National Redress Scheme in Australia offers an option of a direct personal response from institutions, with the scheme administration facilitating the provision by conveying survivors' requests for these forms of direct personal response to the relevant institution.¹⁵ Not all survivors will want this, particularly if they receive a written apology from the Scottish Government and for some, the provider may no longer be in existence. However, for those that do this will have minimal implications for the service providers delivering the apology and the administrative support from the scheme. This cost is included within the staffing costs of the administrative body. The Scottish Government also intends to work with survivors and other stakeholders to develop best practice guidance on what makes an effective and meaningful apology.

Receipt of financial contributions

89. Financial contributions to the redress scheme from third parties will be paid to the Scottish Ministers. Financial contributions to the redress scheme will be treated as income and will be used to make redress

¹⁵ For further information on the National Redress Scheme in Australia:
<https://www.nationalredress.gov.au/>

payments to survivors of child abuse on completion of a successful application to the scheme. Financial contributions from former service providers are not expected to exceed payments to survivors over the life of the scheme.

90. The Scottish Ministers will publish a list of those whose financial contributions to the scheme are fair and meaningful such that they will be included in the published list of contributors. In accepting a redress payment, applicants will sign a waiver relinquishing their right to raise and continue with relevant proceedings, such as an action for damages, against all those on the list at the time that the applicant is found to be eligible for a redress payment.

91. The Scottish Public Finance Manual (SPFM) states that sums received by bodies funded direct from the Scottish Consolidated Fund (SCF), including the constituent parts of the Scottish Administration, must be paid into the SCF unless provision has been made for the disposal of or accounting for such sums by or under an Act of the Scottish Parliament. The use of receipts to fund expenditure should therefore, as a rule, be subject to separate authorisation by the Parliament in the annual Budget Act or subsequent Amendment Orders. The annual Budget Act authorises the use of accruing resources for specific purposes up to specified amounts. The redress scheme will therefore seek the necessary parliamentary authority in the annual Budget Act to allow income to be used to make payments to survivors.

Costs on Local Authorities

Financial contribution to scheme

92. The redress scheme will cover the period up to 1 December 2004. Those eligible to apply for redress payments are those who were resident in a relevant care setting, and were abused in such a care setting before that date and, in certain circumstances, their next of kin. The period covered by the scheme includes significant restructuring of the local authority landscape and its associated responsibilities. A collective contribution on behalf of local authorities through the Confederation of Scottish Local Authorities (COSLA) is being sought.

93. Financial contributions to the scheme are being sought through COSLA to represent the central role and responsibility local authorities held in the provision of care for children within Scotland throughout the period

covered by the redress scheme. This responsibility is both direct, through the provision of care, and more broadly, for example, through the responsibility for the placement of children.

94. The making of such a contribution would have financial consequences for local authorities. However, it would reduce the financial risk faced by local authorities through civil litigation on the part of survivors of abuse, should those survivors prefer to accept a payment through the redress scheme.

Resource implications

95. Social Work Scotland, which is the professional leadership body for social work and social care, anticipates that local authorities will see a significant rise in demand for their services in general due to the establishment and implementation of the redress scheme. Requests for records are only one element of this expected increase in demand. Workloads for a wide range of professional and administrative staff may also increase because of the support required for those applying to the scheme. This includes processing record requests and associated redaction, helping applicants understand their records, and mental health and other practical supports applicants will require. Local authorities and local authority social work services are also facing a rise in demand on their time and services due to the Limitation (Childhood Abuse) (Scotland) Act 2017 and the creation of the SCAI, essential as those measures have been.

96. Further detail of how the scheme will operate will be considered throughout the passage of the Bill. These scheme operation details will be a factor in determining additional costs to local authorities. For example, delivery of the non-financial component of redress will have resource implications for local authority services. Mental health services for both children and adults are already resource-constrained with long waitlists. This scheme may have knock-on effects for these other services, particularly if the non-financial redress aspect of the scheme is also resource-constrained, and people look elsewhere for support.

97. Local authorities have been building knowledge and developing systems and good practice in the area of historical abuse, particularly in recent years due to the SCAI and associated investigations. It will be vital to continue to engage with COSLA and Social Work Scotland as operational processes are developed, given the significant role they will

play in supporting applications and applicants and the impact it will be likely to have on their services and resources.

98. How many applicants will seek access to local authority records to support an application to the scheme is unknown. Some applicants will have other sources of evidence available to them, or will have already secured records for another purpose. However, it is certain that local authorities are likely to be a key point of contact for many applicants. Cost estimates in respect of subject access requests are provided below, albeit the complexity of each individual request is uncertain and across the 32 authorities there will be some degree of local variation in approach and grading structures. Work will continue with COSLA and Social Work Scotland on the likely financial impact on their other areas of work in connection to the scheme.

Right to Access - Subject access requests

99. Applicants will be required to provide evidence to support their application, which will include evidence of residence in a care setting and, for individually assessed payments, documentary evidence of the abuse suffered.

100. Applicants may submit a right to access - subject access request (RTA-SAR) to the relevant local authority. In some cases another agency may do this on their behalf or the redress scheme itself may seek these records. Local authority boundaries have been reorganised twice (1975 and 1996) which may increase the amount of resources needed to complete a RTA-SAR for historical information – time spent identifying which local authority has the information or was the responsible provider of care, as well as cross-cutting work to obtain, review, and redact the files all become more resource intensive when working across (unclear) boundaries.

101. The landscape and responsibility for care provision shifted towards local government throughout the period covered by the redress scheme, meaning that local authorities can expect to receive a very significant proportion of the RTA-SARs submitted in support of applications to the redress scheme. In addition to RTA-SARs, the redress scheme will have powers under the Bill to require organisations to produce documents on request, similar to requests made by the SCAI under the Inquiries Act 2005 or through the specification of documents (court order) process as part of civil actions. Engagement with local government on this matter will continue

throughout the passage of the Bill and throughout the process of implementation.

102. The 32 local authorities across Scotland organise the handling of RTA-SARs in different ways. Two models are provided to illustrate the likely magnitude of costs based on an estimate of 70 percent of RTA-SAR requests going to local authorities – resulting in 6,650 requests over the estimated five years of the scheme. Estimates extrapolated from the two models for the overall cost to local authorities across Scotland range between £8.7 m and £14.7 m.

103. Social Work Scotland has provided the grades of staff who may carry out this work to allow an estimate of the costs to be provided. It is important to note that each local authority will have its own structural arrangements and grades which will vary from those which are presented. The examples which have been provided contain gaps in relation to reporting implications, therefore cost may exceed these projections.

104. Example from Aberdeen City Council

Table 14: Estimated costs for Aberdeen City Council

Averages (12 RTA-SAR cases used to calculate)	
Administration & redaction time (G12 grade)	68 h 48 m
Quality assurance & debrief time (G12 & G15 grade)	9 h 45 m
Total time	77 h 48 m
Total Cost (inc. on costs)	£1,784.83 -
Depending on hourly rate of G12 grade	£1,970.36
Number of files	10
Number of pages at start	3,544
Number of pages at end (10 of 12 RTA-SARs completed)	1,029

105. Administration and redaction time involves the case worker determining what information is required for the RTA-SAR. The case worker engages with, clarifies the access request and offers support and guidance on the process. This involves the following:

- Supporting people to understand the detail of the information
- Providing pastoral support in relation to the nature of the request and the information contained therein

- Signposting and referral to support agencies to ensure care experienced people are receiving support whilst accessing their records
- Copying and saving all scanned materials
- Reading all paper and electronic files to identify confidential personal information of third parties
- Removing third party information by redacting all files electronically
- Consulting with legal services.

106. The staff involved in the redaction of files is usually an operational worker, with any risks being escalated to senior officer level staff. Senior officer level staff provide expert leadership on the process, legalities, quality assure, and support, counsel and debrief operational workers.

107. Across the RTA-SARs used for this cost analysis, the number of case files to be processed ranged between 3 and 19, and some of these RTA-SARs remain open and are not yet fully costed. It is estimated that each request takes an average of 78 hours' work to complete at an overall cost, in terms of officer or staff time, of between £1,800 and £2,000 (depending on hourly rate). If local authorities received RTA-SARs from 70% (6,650) of applicants this would equate to a cost of between £12 m and £13.3 m over the term of the scheme.

Example from North Lanarkshire

Table 15: Estimated costs for North Lanarkshire Council

Averages with the exception of quality assurance	Simple	Complex
Administration (£12.80 per hour)	27 h	27 h
Field Work (£22.67 per hour)	40 h	40 h
Collection & return of files (£10.59 per hour)	2 h	2 h
Records management resources for social work file retrieval – Grade NLC5 (£11.85 per hour)	1 h 41 m	1 h 41 m
Records management resources for social work file retrieval – Grade NLC13 (£26.65 per hour)	0 h 09 m	0 h 09 m
Quality assurance	0 h 20 m	40 h
Total costs	£1,305.25	£2,204.49

108. Administration and redaction time involves the worker deciding what information is required for the RTA-SAR: at times consulting with legal services, reading all paper and electronic files, anonymising all files either electronically or manually, and copying and saving all scanned materials. The staff involved in the redaction of files is usually a senior social worker or a senior officer level staff. Quality assurance and debrief time involves replying to requests for clarification; replying to requests to clarify or provide support for more complex details, documents or RTA-SARs. Whilst dealing with RTA-SARs is an inherently administrative task, social work staff spend a considerable amount of time and resources supporting people to understand the detail of the information, providing pastoral support in relation to the nature of the request and the information contained therein, as well as signposting to appropriate support if able.

109. Based upon SARs used for this cost analysis, it is estimated that a simple request takes an average of 71 hours' work to complete at an overall cost, in terms of staff time, of £1.3 m a year. A more complex case involves more quality assurance time of up to 40 hours so brings the average up to £2.2 m a year. If local authorities received SARs from 70% (6,650) of applicants this would equate to a cost of between £8.7 m and £14.7 m over the term of the scheme (estimated at five years).

110. The costs set out in this section will be considered in the ongoing discussions with COSLA.

Costs on Other Bodies, Individuals and Businesses

111. Following engagement with the bodies identified as being financially impacted by the Bill, the following assessments of cost have been provided by the representative bodies. The costs identified will form part of considerations during their future budgetary processes.

Care providers past and present

112. The redress scheme reflects a commitment to survivors to acknowledge a historical collective failing. Financial contributions are sought for the redress scheme from those who had a role of responsibility for children in care during the period covered by the scheme, up to 2004.

113. Costs as set out are on the basis of the cost of the statutory scheme and do not include external contributions. Contributions from others,

including for example, historical providers of care in Scotland, will be used for redress payments for survivors. They will not be used for any other aspect of the scheme. Contributions to the redress scheme will be negotiated with organisations based on a number of factors.

114. Contributions to the scheme will be for the benefit of all survivors of abuse who receive redress payments. To ensure that contributions from participating organisations are fairly assessed, consideration will be given to publicly available information in respect of historical abuse and on the provision of care in Scotland throughout the period covered by the scheme. Contributions will be sought from organisations which fairly and meaningfully take into account the available information and an assessment of the potential number of applications relevant to them, and the potential redress payments which may follow. Given the uncertainty regarding potential applications to the scheme, in many cases, this assessment will include setting a cap to the contribution – a high estimate of the number and value of applications settled – to provide those contributing with the degree of financial certainty required for financial planning purposes. This provides a degree of certainty that those making contributions will be able to deliver on the commitment they have made to survivors. For organisations where there is insufficient information to assess the potential number of applicants to the scheme, the approach to contributions will centre on the payment of the accumulated costs of all determined applications where the organisation is named.

115. The provision of financial contributions to the redress scheme by historical care providers or others would have financial implications for the organisation involved. As with local authorities, the making of such contributions may reduce financial risks otherwise faced by the organisation through civil claims which could be raised by survivors of abuse. If those survivors prefer to accept a redress payment then they no longer have the option to bring or continue a claim against any organisation on the contributor list. The contributions sought will take into account the circumstances of the organisation and should not risk current services. However, addressing affordability should not be to the detriment of survivors who apply for redress. A package of measures, including setting a cap to contributions where possible, and increasing the Scottish Government contribution and the period of time over which a contribution can be made, maximises opportunities for organisations to participate whilst not compromising on the ethos of the redress scheme the Scottish Government is looking to establish.

116. The Bill will remove technical barriers relating to charity law to ensure that charitable organisations are able to contribute financially to the redress scheme should they choose to do so.

117. It should also be noted that, like other organisations mentioned later in this section, organisations which provided care will face indirect costs associated with responding to record requests from applicants who are seeking proof of their time in care.

Insurance providers

118. The position of insurance companies is a significant factor for many potential contributors, including some who may otherwise struggle to make the fair and meaningful contributions required to justify the extension of the waiver to them.

119. It is not appropriate for the Scottish Government to interfere in contractual relationships between insurers and those insured. However, insurance companies have been asked to assist organisations facing a call for contribution. Given the potential exposure to litigation and costs faced by organisations which do not secure the waiver, the approach to contributions aims to encourage insurers to support contributions to the scheme.

120. The Scottish Government has engaged with insurers on the subject of the redress scheme. Some insurance companies may determine that they will contribute to the scheme on behalf of those they insure with historical responsibility for the care of children. This would be an indirect impact of the scheme.

Future Pathways and the Survivors of Childhood Abuse Support Fund for organisations

121. Future Pathways and other existing services may experience an increase in demand due to the general awareness-raising created by the establishment of the redress scheme. Funding is provided through the Survivor Support Team in the Directorate for Community Health and Social Care in two initiatives. The Survivors of Childhood Abuse Support Fund will provide funding to 29 third sector and community based organisations over the period 2020-2024. The fund total is £10 m over the four years with a maximum spend of £2.5 m per year. The purpose of the fund is to support recovery and resilience of adult survivors of childhood abuse (not restricted

to in-care abuse), by enhancing capacity and capability of third sector and community-based organisations providing dedicated support. Support can range from individual talking therapies and group work to peer support, complementary therapies, physical and outdoor activities, arts, and cultural activities.

122. Future Pathways currently provides a targeted service for survivors of abuse in care. As of January 2021, Future Pathways has 1,678 people registered with the service. The eligibility criteria and the evidence requirements to demonstrate in care status differ from those for financial redress. Using a personal outcomes approach, Future Pathways is primarily a brokering and support co-ordination service. The majority of commissioned services are related to therapeutic service provision and support to access records of time in care. The percentage of eligible applicants to the redress scheme who are already registered with Future Pathways or who already receive counselling but who are not already engaging with Future Pathways or another service is unknown. The total budget for Future Pathways from 2016 to end March 2021 is £16 m. The Scottish Ministers have agreed to extend the funding period for Future Pathways to end March 2023, with the annual budget for the extended period to be negotiated annually.

123. It is not yet known how significant the increase in demand will be on these existing organisations. Close working will continue with colleagues in the Directorate for Community Health and Social Care to ensure that throughout the design of a non-financial redress package, consideration is given to how this aligns with existing provision through Future Pathways and others.

Police Scotland

124. Police Scotland advise that there will be financial implications due to the creation of the redress scheme in respect of:

- risk assessments and new reports
- subject access requests
- legal requests for documents.

Risk assessments and new reports

125. Police Scotland will be required to have resources in place for the duration of the redress scheme to receive and risk assess information relating to perpetrators of non-recent child abuse referred to in statements provided by applicants.

126. Prior to commencement of the advance payment scheme, it was agreed that details of any perpetrators provided by applicants would be shared with Police Scotland to enable an assessment of current risk. Whilst numbers of 'referrals' to Police Scotland have been low for the advance payment scheme, given the approach taken in respect of individually assessed payments, a significantly higher number of applicants will name or describe their abuser(s), leading to a higher number of referrals to Police Scotland.

127. Following the development of application forms and guidance, the estimated rate of expected risk assessments may decrease, reducing the cost. These costs will be revisited prior to the opening of the scheme.

128. Whilst the advance payment scheme is open to those survivors of in-care child abuse who are either over 68 years of age or who are terminally ill, the redress scheme will be open to adult survivors of in-care child abuse of all ages. It is therefore assessed that perpetrators disclosed by applicants will be younger than perpetrators disclosed by applicants to the advance payment scheme, and might pose more a current risk requiring increased police time.

129. Based on other investigatory and formal processes, Police Scotland has assessed that an average of two hours' research is required for each individual listed on the application form and that, on average, each applicant provides details of three individuals. However, there may be cross-over between perpetrator details provided by applicants to the redress scheme and those other processes. Police Scotland may need to realign resources to manage additional demand in this area.

130. Police Scotland advises that the average cost for a risk notification form is £150. This does not include any action which requires to be undertaken in response to the risk notification, e.g. by local Public Protection Units. The following table shows the total cost, in terms of staff

time, of risk notifications which could be received by Police Scotland, based on percentages of the estimated 8,000 applications:

Table 16: Police Scotland risk assessment costs

Percentage	No. applications per annum	Annual cost	No. applications over 5 years	5-year cost
25%	400	£60,000	2,000	£300,000
50%	800	£120,000	4,000	£600,000
75%	1,200	£180,000	6,000	£900,000
100%	1,600	£240,000	8,000	£1,200,000

131. Police Scotland considers that it could receive risk notifications for at least 75% of the applications, which would lead to a cost of £180,000 per year and a total cost over 5 years of £900,000.

132. Police Scotland has undertaken an assessment of the potential volume of new reports of abuse which could be received from applicants, either directly through the scheme or indirectly through other means.

133. Based on the ratio of risk notifications and new reports of non-recent child abuse arising out of other similar investigatory and formal processes and by using the number of risk notifications Police Scotland estimates may be received from the redress scheme, it is assessed that this could lead to around 655 new reports being made over 5 years.

134. Police Scotland assesses that, on average, the investigation of one suspect for non-recent child abuse costs approximately £6,000 in terms of officer/staff time. Assuming that each new report relates to one suspect, this would equate to an annual cost in the region of £786,000 and a 5-year cost in the region of £3,930,000.

135. Police Scotland estimates that the number of new reports will be lower than this due to the fact that there will be cross-over between applicants to the redress scheme and survivors who have already reported abuse to Police, but they also think it prudent to highlight that new reports of abuse experienced in care settings frequently relate to more than one suspect.

136. If applicants decide to make new reports of abuse to Police Scotland, either directly through the scheme or indirectly through other means, this will create an increase in demand for investigative resources with associated implications. Costings have not been provided for this aspect due to the uncertainties surrounding the potential increase of new reports to Police Scotland.

Subject access requests

137. Applicants will be required to provide evidence to support their application, demonstrating having been in care and of experience of abuse in care, which could include a previous report to police or an offence disposal. Similar to other organisations, it is difficult to calculate the number of applicants who will use Police Scotland as their source of information, or the exact nature of the information they are seeking.

138. Where applicants have previously reported abuse to police, they may submit a SAR to Police Scotland in order to support their redress claim. Some survivors may also submit SARs to evidence their in-care status, particularly where this cannot be sourced from the care provider. This would lead to an increase in SARs being received and actioned by Police Scotland's Information Management Department.

139. Survivors will have the choice to submit a SAR themselves, or have the Scottish Ministers as administrators of the scheme request the information on their behalf, with the survivor's permission. The Scottish Government will develop a memorandum of understanding with all relevant organisations, including Police Scotland, to control and streamline the sharing of data between the two organisations, creating efficiency for all parties involved.

140. It is reasonable to assume that Police Scotland will receive a higher proportion of SARs for the redress scheme as it is understood that applicants will increase in numbers as well as have to provide a greater level of proof for the redress scheme as opposed to the advance payments scheme. The redress scheme will require to know whether applicants have previous convictions, where relevant, and this information could be obtained through the SAR process. However, there is also a possibility that an increase in SARs for the redress scheme will create a decrease in the number of SARs for litigation purposes, which may reduce or balance out the number of requests received overall by Police Scotland.

141. Police Scotland report that there has been an increase in reports of in-care child abuse as a consequence of the Scottish Child Abuse Inquiry and targeted investigations and prosecutions by both Police Scotland and Crown Office and Procurator Fiscal Service (COPFS), which will have increased the potential number of applicants who have information held by Police Scotland.

142. Based upon SARs received, Police Scotland estimated that each request takes an average of three hours' work to complete at a cost, in terms of staff time, of £65. Police Scotland estimate that as many as 50% of applicants (4,000) could make SARs, which would equate to a cost of £52,000 per annum and a total cost over 5 years of £260,000. Where the percentage of requests received is lower or higher, the costs will decrease or increase accordingly.

Legal requests for documents

143. As noted previously, the redress scheme will benefit from powers under the Bill to require organisations to produce documents on request. There will also be an offence for failure to comply with such requests.

144. The requirement to produce documents on request is anticipated to be similar to requests made by the Scottish Child Abuse Inquiry under the Inquiries Act 2005 or through the specification of documents (court order) process as part of civil actions. The redress scheme is expected to create an increase in such requests.

145. With regard to criminal offences, Police Scotland has a plan for responding to offences arising from breaches of the Inquiries Act which would be updated to include potential offences connected with the redress scheme. As a consequence, any training requirement would be limited and focussed on a small number of officers, leading to minimal costs.

146. Based on specification of documents orders received by Police Scotland relating to non-recent child abuse, including in-care, it is assessed that each order takes an average of 18 hours' work to complete at a cost, in terms of officer or staff time, of £486. Police Scotland estimate that legal requests may be used to support 50% of applications by next of kin (750 applications), which would equate to a cost of £72,900 per annum and a total cost over 5 years of £364,500. Where the percentage of requests received is lower or higher, the costs will decrease or increase accordingly.

Any further use of the legislation to obtain documents from Police Scotland would alter this assessment. The development of the operation of the scheme might identify savings or additional costs. Engagement with Police Scotland will continue throughout the passage of the Bill and throughout the process of implementation.

Miscellaneous

147. Police Scotland does not intend to make a financial contribution to the redress scheme. Police Scotland will therefore not be included in the list of organisations subject to the waiver that survivors accepting a redress payment will sign.

148. There may be cost implications in respect of additional accommodation and ICT requirements; however, no estimate has been made of these costs at this time.

Table 17: Summary of costs on Police Scotland

Area	Annual cost	5- year cost
Risk assessment	£180,000	£900,000
New reports	£786,000	£3,930,000
Subject access requests	£52,000	£260,000
Legal requests for documents	£72,900	£364,500
Total	£ 1,090,900	£ 5,454,500
Contingency @ 20%	£218,180	£1,090,900
Overall total	£ 1,309,080	£ 6,545,400

149. The potential financial implications to Police Scotland of the Bill, in terms of staff time, allowing for a 20% contingency, is estimated at £1.3 m per annum and a total cost over 5 years of £6.5 m.

Crown Office and Procurator Fiscal Service (COPFS)

150. COPFS advises that there will be financial implications due to the creation of the redress scheme in respect of:

- COPFS will receive reports from the police in respect of fraudulent applications for redress. The Bill does not create a new offence to

cover this behaviour which will be covered by the existing common law.

- The Bill proposes a new statutory offence of failing to comply with a request for information and COPFS may receive reports in respect of individuals or organisations who or which commit such offences.
- COPFS is likely to receive requests for information where the abuse suffered by a survivor, where relevant to an application, has been the subject of a crime report.

Fraudulent applications for redress

151. The extent to which the scheme will be subject to fraudulent applications will depend to a large extent on how robust and secure the application process is. Fraudulent applications will most likely be for fixed rate payments. At that level of payment, any prosecution of a single fraudulent claim would be at summary level. However, if individuals or organised crime groups target the scheme with multiple fraudulent applications, prosecution on indictment may be necessary.

152. The number of cases and, as a result, the cost to COPFS, cannot be accurately quantified at present. COPFS will keep these costs under review over the first year of the scheme and, if they are significant, will approach the Scottish Government for additional finance thereafter.

Failure to comply with a request for information

153. The extent to which individuals or institutions may refuse to comply with requests for information cannot currently be accurately assessed. It cannot therefore be anticipated whether, or how frequently, such offences will be reported to COPFS, but on the basis of other similar schemes this is not expected to be a frequent occurrence.

154. Again, the number of cases and, as a result, the cost to COPFS cannot be accurately quantified at present. COPFS will keep these costs under review over the first year of the scheme and, if they are significant, will approach the Scottish Government for additional finance thereafter.

Requests for information

155. The current estimate is that there will be 8,000 applications and 1,500 next of kin applications over the estimated five-year life of the scheme, with the majority of applications being made early in the scheme.

156. As noted previously, it is difficult to predict how many applicants will contact COPFS to request information to support their application. If requests for information are made in cases where the applicant or administration team do not know whether a report was submitted to COPFS, as is the case for all organisations, these requests may be time consuming to deal with, even where the ultimate response is a nil return. The Scottish Government will make efforts to only make requests where there is a reasonable belief that COPFS hold information that will be relevant to the applicant.

157. The proportion of applications in which there will be a related criminal case is not known and cannot be accurately assessed. COPFS provided the information below to give an illustration of the possible volume of requests to COPFS for information. The following table shows the numbers of requests COPFS would receive if requests are made in respect of 10%, 20%, 30% or 50% of the anticipated total applications. A proportion of requests above 50% is not anticipated. Where the percentage of requests received is lower or higher, the costs will decrease or increase accordingly.

Table 18: Percentage uptake scenarios for COPFS

Percentage uptake scenario (%)	Number of requests (based on estimate of 9,500 applications)
10% of total	950
20% of total	1,900
30% of total	2,850
50% of total	4,750

158. The following table illustrates the average numbers of requests that would be made to COPFS on a weekly and annual basis over the life of the scheme, proceeding on COPFS' assumption that approximately 75% of the total claims will be made in the first two years with the remaining approximately 25% being spread over the last three years. The figures are extrapolated from the estimate of 9,500 applications from survivors and next of kin. The weekly figure is based on an individual working for 47 weeks in a year.

Table 19: Average number of information requests made to COPFS over scheme lifespan (based on 9,500 applicants)

Percentage uptake scenario (%)	Year 1	Year 2	Year 3	Year 4	Year 5
	3562.5 applications	3562.5 applications	791 applications	791 applications	793 applications
10%	356.3 p.a. (7.6 / week)	356.3 p.a. (7.6 / week)	79.1 p.a. (1.7 / week)	79.1 p.a. (1.7 / week)	79.3 p.a. (1.7 / week)
20%	712.6 (15.2)	712.6 (15.2)	158.2 (3.4)	158.2 (3.4)	158.6 (3.4)
30%	1068.8 (22.7)	1068.8 (22.7)	237.3 (5)	237.3 (5)	237.9 (5.1)
50%	1781.3 (37.9)	1781.3 (37.9)	395.5 (8.4)	395.5 (8.4)	396.5 (8.4)

159. As with other organisations, it is difficult to predict how many requests will be made to this source rather than others. COPFS has made the assumption for the basis of providing an estimate that it will receive requests by 20-30% of applicants, therefore, it is estimated that COPFS may receive around 22 requests per week for the first two years before the figure drops thereafter.

160. The amount of work required to process a request for information will inevitably depend on a number of factors including the format and location in which the case records are held, the size of the case and the number and form of statements and information provided by the applicant. COPFS' records may be held electronically or in hard copy files held at its own central storage facility or by National Records of Scotland depending on the age and type of case concerned. Estimates have been provided by NRS, which are detailed later in the document.

161. COPFS already receives this sort of request for information in the form of Subject Access Requests and specifications of documents arising out of civil litigation. On the basis of COPFS' experience of responding to such requests, it can be said that while some requests, such as those relating to recent single complainer cases with limited case documents, will be capable of relatively speedy resolution, others, such as serious historical cases involving multiple complainers and charges, will require considerable time, measured in days rather than hours, to deal with. As well as witness statements, relevant information may be contained in medical or social

work records and precognitions. Scheme administrators will support applicants seeking information to reduce the likelihood of seeking the same information from multiple sources.

162. It is assessed that COPFS will require to recruit a permanent member of staff at management grade (Band C) and two fixed term administrative staff (Band B) to process these requests, at least at the outset of the scheme. The cost of employing these additional members of staff for a year will amount to approximately £0.095 m. This would give a **cost of £0.475 m** across the lifespan of the scheme. COPFS will keep both the numbers of requests and the time taken to respond under review over the initial months of the scheme and may require to approach the Scottish Government for additional finance.

Scottish Courts and Tribunal Services (SCTS)

163. Like the other organisations mentioned in this section, SCTS has identified that it will see an increase in requests for records from the courts from applicants to the redress scheme. The requested information will be used as supporting evidence for redress applications.

164. SCTS has based its estimates on its working knowledge of court procedures and the associated costs created by searches for relevant information. The estimates provided take into consideration the time which may be expended by administrative staff to search for, identify and retrieve the information sought and other wider records issues such as data protection considerations and also the additional work which may arise due to the historical nature of the information which might be requested.

165. SCTS costs are based on 30% of scheme applicants (2,850 of the estimated 8,000 survivor applicants and 1,500 next of kin applicants) contacting SCTS for records across the lifespan of the scheme, setting the total cost at around £0.05 m and an annual cost of around £0.01 m.

Table 20: Estimated cost of subject access requests for SCTS

Payment level	Payment	Anticipated recipients	SCTS costs (£) (based on 30% of applicants)
Fixed rate payment	£10,000	1,200	6, 272
Next of kin payment	£10,000	1,500	7,840
Level 1	£20,000	2,800	14,636
Level 2	£40,000	2,400	12,545
Level 3	£60,000	800	4,181
Level 4	£80,000	400	2,090
Level 5	£100,000	400	2,090
Total			£49,654

National Health Service

166. Applicants may also contact NHS Scotland to request records to support their application, either evidence of being in care and evidence of the abuse itself. Usually, NHS Scotland also holds records as a care provider in respect of applicants who were in medical institutions that fall under the eligibility criteria. NHS Scotland highlights that these records are variable and may simply be a record of being resident but there are small archive teams in place to deal with these particular historical requests. The NHS Scotland records landscape and the processes involved are complex and similar to other organisations. There are challenges in predicting the nature of information requested as well as the volume. For some records, depending on what is being requested, there may be ethical and clinical considerations to be applied and this will impact on resources.

167. NHS Scotland highlights the importance of helping applicants request the right information, ideally focused on what the applicant needs for their application, avoiding excessive redaction and reduced timescales for applicants as well as providing the resources required. It will be essential to engage in further dialogue with NHS Scotland colleagues as practice guidance and operational processes are developed. This will ensure clear advice will be available to applicants and will give NHS staff the opportunity to further consider the resource implications and processes involved.

168. Similar to the advance payment scheme, NHS Scotland will also have an important role in confirming terminally ill applicants to allow these applications to be prioritised.

169. Different parts of the NHS hold different records. SARs can be through the relevant Health Board and the ease and timescales involved in processing these will again depend on the individual circumstances of the applicant. The level of demand across Health Boards may vary as will the depth of complexity of the information being sought; therefore it is difficult to predict with certainty the impact and costs on Health Boards. It will be important to monitor the resources required through delivery of the scheme, particularly in the early stages of operation.

170. If an applicant wishes personal information from their medical records and is registered with a GP practice they will be able to request this directly from the GP practice. The Practitioner Services business unit within NHS National Services Scotland (NSS) will accept a SAR relating to access to medical records where it may not be possible for the last GP practice to conclude the request - for example, if the GP practice has closed and no longer exists. NSS will have an independent GP, usually from the applicant's health board area, review the record for completeness and appropriate redaction if required.

171. Healthcare services recognise that mechanisms need to be in place to ensure that this 'non-clinical' but important service designed to help regain patient trust in a system that has let them down works well and that other patients' care is not displaced. In order to do this, GP practices may need to be funded or reimbursed specifically for this activity at an agreed rate. Given the uncertainties, it is challenging to outline the costs and resources required. However, in relation to access to GP records, some estimated costs have been provided.

172. Based on the assumption of 8,000 applicants and 1,500 next of kin applicants, and 50% of these applicants contacting their GP practice for records, GP practices will receive 4750 requests over the lifespan of the scheme (estimated at five years). Each processing of a request will require the work of both a GP and another member of staff with an upper unit cost of £250. This could result in an overall notional cost to practices of £1.2 m across the lifespan of the scheme. This estimate is based on the likelihood that many survivors will access medical records to provide evidence of both being in care and of the abuse itself.

173. Most Scottish GP practices are independent contractors who are responsible for making their own arrangements for complying with national legislation such as GDPR. Practices have to meet the costs of responding to Subject Access Requests from their general funding although the Scottish Government has partially funded the digitisation of existing paper records to make fulfilling requests less burdensome to practices and to release physical space in practice premises. NHS Scotland notes the requirement to deal with Subject Access Requests has the potential, at times, to impact on the resource available to provide direct healthcare, thus having an indirect additional cost. As demand and impact will vary across individual GP practices, and in a similar way to NHS Boards, monitoring will be essential.

174. The relevant healthcare services will be asked to keep both the numbers of requests and the time taken to respond under review over the initial months of the scheme to assess the workload implications. This will include the consideration of the range of routes being used and the impact of resources in the different NHS records departments and GP practices. In response to the information provided over time, Scottish Government may require to review how GP practices undertaking this work are funded and subsequently negotiate a settlement with the British Medical Association.

National Records of Scotland

175. National Records of Scotland (NRS) has advised that record requests sent to it relevant to redress will likely be mainly for historical court records and in relation to records held in private collections of some child care organisations. NRS acknowledges that many applicants will have other more appropriate sources for records, such as care providers or local authorities and as such have provided estimated figures on that basis

176. Applicants may request records from the National Records of Scotland to support their application. Based on the assumption of 8,000 applicants and 1,500 next of kin applicants (total of 9,500), and 5% of these applicants contacting the NRS for records, the NRS will receive 475 requests over the lifespan of the scheme (estimated at five years). The NRS estimates that each processing of a request will cost an average of £142. This would result in an overall cost of £67,450 across the lifespan of the scheme, subject to inflationary pressures.

177. The NRS will keep both the numbers of requests and the time taken to respond under review over the initial months of the scheme and may require additional staffing resource to manage the increase in requests.

Individuals

178. Specific provisions have been included within the Bill to ensure that applicants are reimbursed for any reasonable costs incurred through applying to the scheme and legal fees will be paid directly to solicitors. This will reduce the risk of economic barriers impacting the likelihood of survivors, and their next of kin where appropriate, applying to the scheme.

179. Engagement is ongoing with the relevant UK Government departments and Scottish Government teams to ensure that the receipt of a redress payment does not impact upon the benefits, tax or social care entitlement of any individual.

Summary of Estimated Total Financial Implications

	Basis on which estimate reached	Estimated total cost (based on the assumption that the scheme is open for 5 years)	Estimated average annual cost
Estimated cost of redress payments (including next of kin payments)	Based on a central estimate of 8,000 applicants and 1,500 next of kin applicants.	£299 m	£59.8 m
Estimated cost of legal fees	Based on the assumption of 100% uptake of the legal fees offer, i.e. 8,000 applicants and 1,500 next of kin applicants.	£17.7 m	£3.5 m
Estimated cost of delivery (Scottish	Based on the requirements needed to process and review 8,000 applications and	£26 m - £36 m	£5.2 m - £7.2 m

Government division, Redress Scotland, and contracted services)	1,500 next of kin applications.		
Estimated cost of counselling	Counselling is based on the Future Pathways experience of 75% uptake (from 8,000 applicants) Alternative delivery of counselling assumptions based on 40 sessions per week for survivors.	£14.8 m	£2.5 m (over 6 years)
Estimated cost to local authorities	Dependent on whether or not a contribution is made to the scheme.	Full extent is unknown due to uncertainties around contributions Resource implications are £8.7 m - £14.7 m	Full extent is unknown due to uncertainties around contributions Resource implications are £1.7 m - £2.9 m.
Estimated cost to care providers, organisations, and insurers	Dependent on whether or not a contribution is made to the scheme.	Full extent is unknown due to uncertainties around contributions	Full extent is unknown due to uncertainties around contributions
Estimated cost to Future Pathways and the Survivors of Childhood Abuse Support Fund for	Dependent on the rise in demand faced by these organisations upon the opening of the scheme.	Unknown until scheme is live / approach is developed further	Unknown until scheme is live / approach is developed further

organisations			
Estimated cost to Police Scotland	Based on the estimate of 8,000 applicants and 1,500 next of kin applicants. Costs are based on the time it will take staff to complete checks and requests associated with the scheme.	£6.5 m	£ 1.3 m
Estimated cost to COPFS	Based on the estimate of 8,000 applicants and 1,500 next of kin applicants. Costs are based on the time it will take staff to complete requests associated with the scheme.	£0.475 m	£0.095 m
Estimated cost to SCTS	Based on the estimate of 8,000 applicants and 1,500 next of kin applicants. Costs are based on 30% of applicants requesting records from SCTS	£0.05 m	£0.01 m
Estimated cost to NHS	Based on the estimate of 8,000 applicants and 1,500 next of kin applicants. Costs are based on the time it will take staff to complete requests associated with the scheme.	£1.2 m	£0.2 m
Estimated cost to NRS	Based on the estimate of 8,000 applicants and 1,500 next of kin	£0.067 m	£0.013 m

	<p>applicants.</p> <p>Costs are based on the time it will take staff to complete requests associated with the scheme.</p>		
Total direct cost to the Scottish Administration		£367.5 m	£73.5 m
Total cost to other bodies (including local authorities)		£22.99 m	£4.59 m
Total quantifiable cost to the Scottish Administration and others		£390.49 m	£78.09 m

This document relates to the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill as amended at Stage 2 (SP Bill 79A)

Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill

[As Amended at Stage 2]

Revised Financial Memorandum

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