



# Annual Report 2020-21

*This Annual Report is submitted to the Executive Office pursuant to paragraph 11(1) of Schedule 1 of the Historical Institutional Abuse (Northern Ireland) Act 2019. This provision requires the Historical Institutional Abuse Redress Board to report, as soon as practicable after the end of each financial year and send to the Executive Office a report on the exercise of the Redress Board's function during that year.*

## FOREWORD

In presenting this first Annual Report, I wish to acknowledge the long and challenging journey that victims and survivors of Historical Institutional Abuse have endured to secure the establishment of the Redress Board, and their continued efforts to ensure the implementation of all of the outstanding recommendations of the Hart report.

I also wish to acknowledge the pivotal role undertaken by my predecessor Mr Justice Colton, in establishing the HIA Redress Board during the period of unprecedented challenge created by the COVID-19 public health emergency. Challenges which impacted upon every part of society.

In December 2019, the then Head of the NI Civil Service, David Sterling provided a commitment to victims and survivors that a Redress Board would open for the receipt of applications by the end of March 2020, with panel sittings in late April 2020 and payments being made by the end of May 2020. Each of these important milestones were achieved. I am conscious, from my engagement with victims and survivors that the establishment of the Redress Board is, however, only one part of the wider set of complementary redress measures recommended by the Hart Report.

I was appointed President by the then Lord Chief Justice, Sir Declan Morgan, on the 8<sup>th</sup> January 2021. It is only proper in this foreword to recognise the commitment of Redress Board panel members, administrative staff, Executive Office officials, Department of Justice officials, the Interim Advocate, the institutions, Health & Social Care Board, the Public Records Office NI, solicitors representing applicants and, most importantly of all, the victims and survivors. We have worked together to deliver on the commitments that were given during the most exceptional of times. Without that commitment, particularly from the Secretary and staff, the functioning of the Redress Board would simply have been impossible.

As of the 31 March 2021, the Redress Board had received a total of 1,273 applications relating to 2,007 residential placements covering 100 different institutions in Northern Ireland. One continuous factor operating against even greater throughput is that, of the **1,273 applications** received, **455 (36%)** were **not compliant** with the basic information requirements set out in Rule 4 of The Historical Institutional Abuse Redress Board (Applications and Appeals) Rules (Northern Ireland) 2020, which deal with among other things, the simple production of birth and marriage certificates identifying applicants. Sadly, I must report that at the end of this reporting year, 134 applications remain **non-compliant despite numerous engagements with instructed solicitors or unrepresented applicants**. This remains a matter of continued frustration for the Board.

Of the 1,139 applications that became complaint during the year one reporting period, 629 have been considered by a panel, 199 were listed during April and May 2021 with the remainder having been managed in line with the governing legislation and business processes of the Redress Board.

During this first year of operations, panels made determinations totalling £13.4 million. It has taken some time to prepare this first Annual Report and, given that, I

have taken the opportunity to provide the most up to date performance figures as of the **31 December 2021**. These are contained at **Annex A** of this Report. **In summary, to 31 December 2021 we had received 2,081 compliant applications of which 1,709 have been considered by a panel resulting in determinations of £34 million.**

As President, I am committed to the effective and efficient discharge of the functions of the Redress Board in accordance with the legislative framework, which governs the operation of the Board, and by which we are bound but, subject to that, I am determined to improve on those deliverables which the Board can control. Where we cannot control, we seek to educate and assist applicants, stakeholders and their advisors, with a view to refining and finessing the process where possible. This report details the performance of our functions, some of our challenges, recognises some critical observations and identifies the opportunities for improvement as the Board sees them.

I have set out in this Report the realities and dependencies which we face in operating the statutory functions of the Redress Board. It is a matter for the Executive Office to consider those realities and, if it wishes, to bring forward amending policies and legislation if it believes it is necessary to do so. If it decides to do so, I would respectfully suggest that it must fully consult, provide appropriate additional resources and realistically plan for the implementation of any such proposals, particularly in light of the wider redress for victims and survivors of historical abuse that the Hart Inquiry envisaged. I say this mindful of the fact that, as currently proposed, we in Northern Ireland have the potential for three different statutory schemes each operating on different bases. We have always expressed our willingness to engage and collaborate in terms of policy and/or administrative improvements to ensure both consistency and transparency.



**Mr Justice Huddleston**  
**President of the Historical Institutional Redress Board**  
**2 February 2022**

## **THE WORK OF THE SHADOW REDRESS BOARD**

1. Following the appointment of Mr Justice Colton as President elect on 15<sup>th</sup> November 2019 the Department of Justice (DoJ) appointed two officials to support him in establishing a shadow Redress Board. The remit of that small team was to:

- Agree the composition of the shadow Redress Board;
- Appoint two other members to the shadow Redress Board;
- Develop appropriate corporate governance arrangements and policies;
- Appoint and train judicial and other Redress Board members;
- Appoint advisors to assist the Redress Board;
- Develop an Application Form;
- Develop Rule 4 operational procedures;
- Develop Rule 7 operational procedures;
- Develop Award Banding Guidance;
- Develop Example of Abuse Guidance;
- Develop Procedural Guidance;
- Develop Legal Costs & Expenses Guidance;
- Develop Unrepresentative Cost & Expenses Protocol;
- Develop Appeal Procedure Guidance;
- Develop a Solicitor On-line Application Portal;
- Develop financial, payment and accounting systems;
- Develop Information Assurance Policies & Agreements;
- Develop secure information exchange solutions with institutions;
- Develop Restriction Orders on the disclosure of information;
- Develop a website;
- Undertake the digital capture of the relevant statutory HIA Inquiry records;
- Undertake a Data Privacy Impact Assessment;
- Recruit and train administrative staff.

2. It is important to acknowledge the significant input into the co-design of the application form and much of the associated guidance that was provided by Victims & Survivors Groups at that time, through a series of meetings led by the Interim Advocate, Mr Brendan McAllister, during what was an intense and challenging period of activity between 18<sup>th</sup> December 2019 and 31<sup>st</sup> March 2020 when the Scheme opened for applications. The result was very much a joint and co-designed effort.

3. It is also appropriate to recognise the significant levels of cooperation received by the shadow Redress Board from the Executive Office (TEO), DoJ and Department of Finance (DoF) officials in addressing staffing, accommodation, and technology challenges to ensure the Redress Board would be operational within a demanding and challenging delivery timetable, operating as we all know, in the face of the Covid-19 pandemic.

## **THE REDRESS BOARD**

4. The Historical Institutional Abuse Redress Board (the “Redress Board”) is set up under, and must function and operate within, the statutory provisions set out in the Historical Institutional Abuse (Northern Ireland) Act 2019 (“the Act”) (which received Royal Assent on 5 November 2019) and The Historical Institutional Abuse Redress Board (Applications and Appeals) Rules (Northern Ireland) 2020, which came into effect on the 27 March 2020 (collectively “the Legislation”)

5. Under the Legislation, the principal task of the Historical Institutional Abuse Redress Board is to receive and consider applications for compensation made by or in respect of a person who suffered abuse while (a) a child (which for this purpose is someone below the age of 18) who (b) was resident in a qualifying institution in Northern Ireland (c) at some time between 1922 and 1995, and, where abuse has been established, to make awards of compensation. The statutory range for compensation is between £10,000 and £80,000 (or £100,000 in the case of forced migrancy).

6. Pursuant to Section 1(2) of the Act the Redress Board has a finite life of 5 years from 30 March 2020.

7. The Redress Board is a body corporate under Paragraph 1(1) of Schedule 1 of the Act and operates independently and at arms’ length from TEO. The relationship between the Redress Board and TEO is governed by a Partnership Agreement.

8. Under Paragraph 5 of Schedule 1 of the Act the Lady Chief Justice of Northern Ireland currently has responsibility for appointing the President of the Redress Board. The President, in turn, has responsibility for ensuring the efficient and effective discharge of the Redress Board’s functions as set out in the Act.

9. The Lady Chief Justice is also responsible for the appointment of other judicial members. Lay members from a health and social care background are appointed by TEO. The panels who deal with applications and award compensation are normally comprised of two lay members and one judicial member who acts as chair. Appeals against panel decisions are determined by a single judicial member appointed for that purpose.

10. To put this in context, it had initially been envisaged that a judicial member alone would determine an application with any appeal being reconsidered by a panel comprised of three judicial members. This position was reversed as a result of the public consultation exercise and extensive discussions between the Interim Advocate and local political parties, before the implementation of the draft legislation which has resulted in the current composition of the Redress Board panels. The current constitution of panels, and indeed the decision making process itself, reflects that consultation.

11. It should be noted that panel members are wholly independent in the performance of their duties and that each member of a panel has an equal say in any determination.

12. The Redress Board members at 31<sup>st</sup> March 2021 were

<b>Judicial Members</b>	<b>Lay Members</b>
The Mr Honourable Mr Justice Huddleston	Ms Beverley Clarke
His Honour Judge Devlin QC	Ms Jacqui McGarvey
Her Honour Judge McCafferty	Ms Val Owens
His Honour Judge Gilpin	Mr Ronnie Williamson
Her Honour Judge Crawford	Ms Netta MacIvor
His Honour Judge Kinney	Mr Joe Blake
His Honour Judge Rafferty QC	Ms Marcella Leonard
His Honour Judge Ramsey QC	Ms Marcia Samuels
	Ms Paula Stacey
Sir John Gillen	Mr Miceal Crilly

13. The Act requires TEO to name a Northern Ireland department to carry out the administrative functions of the Redress Board. The DoJ was designated as the department responsible for the provision of 28 administrative staff, including the Secretary, to exercise the administrative functions of the Redress Board.

### **THE LEGISLATION**

14. The Historical Institutional Abuse Act (Northern Ireland) 2019 was passed by the UK Parliament on 5<sup>th</sup> November 2019. The supporting Rules were made by the Executive Office under the powers conferred in the Act, were laid before the Assembly on 27 March 2020 and were subject to the negative resolution procedure.

#### *Entitlement to Claim Compensation*

15. Section 2 of the Act addresses the entitlement to make a claim for compensation and sets out:-

- who can make an application for redress;
- what is considered to be an “institution” for the purposes of redress; and
- defines the term “abuse”.

16. Section 2 of the Act (as drafted) is intended to give effect to the Historical Institutional Abuse Inquiry (HIAI) Report (“the Hart Report”) recommendation that compensation should not be payable to anyone based solely on residence in an institution alone. Therefore, unlike other redress schemes the Act does not provide for what is sometimes referred to as a “common experience” or “harms’ way” payment, which is paid for presence in an institution without anything more. By comparison, the HIA redress scheme, as provided for by the Act, is evaluative and compensation is only payable where a person can show, on the balance of probabilities, that he/she has suffered abuse of the type defined in section 2(2) of the Act.

17. The relevant extracts from Volume 1, Chapter 4 of the Hart Report are replicated below as they appear to set out the underlying rationale for this approach:

*“Para 41 - We consider compensation should not be payable to anyone merely because they were resident in an institution within our Terms of Reference. Many of those who were resident in these institutions were not abused in any way, and we consider there is no justification for awarding*

*compensation to individuals merely because they were in homes where others were abused, but they were not themselves abused, and were unaware of abuse taking place.*

*Para 42 - We therefore recommend that compensation awarded by the HIA Redress Board should only be payable to, or in respect of, a person who can show (or their estate can show) on the balance of probabilities that they:*

- (a) suffered abuse in the form of sexual, physical or emotional abuse, or neglect or unacceptable practices, between 1922 and 1995; and*
- (b) were resident in a residential institution in Northern Ireland as defined by the Terms of Reference of the HIA Inquiry when they suffered the abuse; and*
- (c) were under 18 at the time.”*

18. While the contents of the Hart Report can provide important corroborative evidence of abuse, the fact that the Historical Institutional Abuse Inquiry found systemic abuse in an institution does not in itself create a basis for compensation to be awarded to an applicant based solely on attendance at an institution.

19. Section 5 and Section 9 of the Act detail the procedures about how an application for compensation can be made to the Redress Board and make provision for the statutory rules to underpin those procedures. The Rules which have resulted are the Historical Institutional Abuse Redress Board (Applications and Appeals) Rules (Northern Ireland) 2020 (“the Rules”).

20. In very simple terms, the onus is on an applicant to describe the abuse they suffered and the impact upon them. That is what the Legislation requires. The Redress Board both expects and encourages solicitors to assist applicants to put forward sufficient evidence in the applicants’ Statements of Experience to allow panels to perform their statutory function in assessing the appropriate amount of compensation.

21. The Redress Board is required to operate within this legislative framework - one which as set out above was fully consulted upon between the Interim Advocate, the VSGs and the local political parties prior to the Legislation being finalised. For the Board to do other than adhere to the Legislation and follow the approach mandated by Parliament would be unlawful.

## **THE APPLICATION PROCESS**

22. The Legislation also requires the Redress Board to engage in a complex process of gathering and assessing various pieces of evidence and information. The key operational stages and best endeavour timescales to progress Rule 4 & Rule 7 compliant applications, together with a summary of the application management systems, are set out at below.

23. The Redress Board did not set a public timeline for the processing and determination of applications as it was impossible, at a time of high uncertainty and low information, to estimate;

- the volume of applications;
- the number of initially **Rule 4 compliant applications**;
- the number of verifying **Rule 7 Notice of Application responses**;
- the range of institutions involved;
- the verifying information that was available including the quality of records;
- the behaviours of participants; and

- the impact on everyone, of the Coronavirus legislation restrictions, which came into effect on 20 March 2020.

24. Each application is unique and the time taken to process an application, in addition to the factors identified above, can vary for a number of reasons, including the complexity of the matters identified in the application, the status of the institution and queries around whether some or all of the application falls within the jurisdiction of the Redress Board.

25. The report of the statutory Historical Institutional Abuse Inquiry (HIAI) into 22 institutions, commented on the varying standards and quality of record keeping maintained by the different institutions at different time periods between 1922 and 1995. This is a reality with which the Redress Board must grapple when a Rule 7 response is received from an institution indicating that it is unable to verify the applicant's reported dates of attendance at that institution. In addition, the Redress Board has received applications in respect of over 80 additional institutions – namely institutions which were not investigated by the HIAI. The Board held no pre-existing information about the history, background and current status of these institutions and had to begin investigative enquiries to ascertain this basic information.

26. An overview of the Redress Board operations and of the extensive investigative work undertaken by the Board in the discharge of its statutory functions is set out in paragraphs 27 to 75 below.

The detailed application process follows the following course:-

#### *Rule 4 – Making an Application*

27. Rule 4 requires that the applicant or the applicant's solicitor **must** submit **all of the necessary and relevant statutory proofs and evidence**, including medical records, expert reports, birth certificates, proof of any name change, photographic ID, marriage certificate, copy of will etc **at the time of making the application for compensation**. The collation of that falls to the applicant or, in 95% of applications, his/her legal representative. That documentation forms the core basis of the entitlement to make a claim.

28. Section 4 of the Act 2019 also requires, that before an application can proceed to consideration before a panel, written confirmation must be provided that any pending civil proceedings have been withdrawn. Where an applicant, or the institution, has indicated that a previous payment of compensation has been made the **applicant is required to confirm both the amount of the award and the date on which it was paid** so that, in accordance with section 13 of the Act, an actuarial adjustment of the award determined by a panel can be made.

29. On occasion there have been delays in the provision of this information by applicants from their legal representatives. This may be attributed to encountering difficulty in obtaining previous payment information or may be attributable in part to applicants deliberating, as is their prerogative, on whether or not to withdraw pending civil proceedings before deciding to progress their application to the Redress Board.



30. Inevitably, it is the case that an application will progress more quickly if it is submitted to the Redress Board with **all of the supporting material required under Rule 4** and with all of these issues having been resolved. As indicated above, however, some 36% of applications submitted lack these essential proofs and are, as a result, marked as 'incomplete'. This remains an issue notwithstanding the introduction of a simple checklist to act as a guide for all applications.

#### *Rule 7 Notice to Applicant Response*

31. At an early stage the Redress Board decided that it would not reject **non-compliant or incomplete applications** because of missing essential information. To accelerate the overall process it informs the solicitor or unrepresented applicant who submitted the application what exactly is outstanding, and reminds them that the application **cannot progress to consideration before a panel** until that missing material is provided. Where applicants are represented, the solicitor is also asked to update the applicant accordingly.

32. Notwithstanding the absence of any Rule 4 information the Board, on receipt of an application, will commence the statutory verification process. As required under the Act, the Board will individually write to **all** of the institutions against which reports of abuse are made, to verify the applicant's attendance. This is called a **Rule 7 Notice/the Rule 7 Procedure**.

33. The Redress Board accepts that given the passage of time it may be difficult for some applicants to remember the exact dates when they were resident at an institution but verification of the accuracy of the reported dates is an important part of the process. This investigative process undertaken by the Board is to help applicants and panels define the relevant period(s) spent in the institution(s).

34. Applicants, if they wish, can also avail of the services of the Commissioner who, under section 28 of the Act, has power to assist them access records about the time they spent in homes, including admission and discharge dates to enable them to apply for compensation to the Redress Board.

35. Where no record of the applicant's attendance at a particular institution is available or if there is a significant discrepancy in the dates provided we will, pursuant to the powers available to the Board under the Rules, develop our investigations by writing to:

- Health & Social Care Board (HSCB) - to establish if they have any placement records;
- Other government bodies, societies and organisations - to establish if they hold any records relating to the applicant; and
- PRONI - to see if it holds any records to verify the applicant's attendance at the relevant institution(s).

36. The outcome of these investigations may verify attendance, lead to another potential source of information or reveal other placements to assist with the verification process. In a number of instances, our investigations have revealed that the applicant was over the age of 18 while in the institution or that their dates of

residence fall outside of the dates within the remit of the Redress Board. Either factor renders them ineligible, and underlines the importance of undertaking the verification exercise

37. If, after all of these investigations have been undertaken, a significant discrepancy remains, for example the applicant reports being resident in an institution for a period of five years but official records indicate the applicant was resident in the institution during three separate periods over five years which, in total, represent a total duration of 18 months, we will write to the applicant's solicitor (or directly to the applicant, if unrepresented) to seek his/her comments on the discrepancy. This is particularly important, as duration of residence at an institution is one of the factors the panel will consider when making its determination. Equally, if the Redress Board cannot obtain any supporting information it will write to the applicant, advise them accordingly, and ask for further comment.

38. On occasions, the institution may provide documentary evidence with their Rule 7 response which requires further review and assessment and this may impact the progress of the application. On occasion, the Rule 7 response may also reveal that an applicant has attended multiple institutions, both religious and state managed, and may, in some instances, be in conflict with the attendance dates and institutions named in the Statement of Experience submitted by the applicant. All of these differences need to be reconciled and clarified before an application can be progressed.

#### *Application Management*

39. The Redress Board processes applications in accordance with the legislation. Procedural Guidance on that process can be found at <https://www.hiaredressni.uk/publications/procedural-guidance>.

40. Section 7 of the Act empowers the President to decide the order of priority in which applications for compensation are to be determined giving particular regard to the age of each applicant, and in so far as it is disclosed on the application, the health of the applicant. The Board prioritises any such applications provided that they are otherwise compliant.

41. The Redress Board has set an indicative **16 week** internal application management timetable to manage the progression of **compliant applications** from receipt to consideration before a panel.

42. This 16 week timetable reflects both the statutory requirements and reasonable business processing timelines associated with the journey of a **compliant application** and the investigations that are undertaken (as described above). How this 16 week indicative timetable is broken down is set out in diagram form at **Annex C**.

43. Systems are in place to monitor key functions associated with each of the **Application, Verification and Validation** stages to include the timely receipt of Rule 7 institution responses and timely compliance with Rule 9 panel requests for information, to applicant solicitors or others. This investigative part of the process accounts for approximately **7 weeks** of the 16 week timetable. It is essential to

ensure that all of the information is collated for the panel hearing. Notification of listing is provided to the solicitor or unrepresented applicant to ensure that they have no further information that they want the panel to consider.

44. If an applicant or an institution fails to provide the required information the Redress Board will undertake a number of steps, as required by the legislation, to encourage or compel the provision of that material. These additional legislative steps will result in an extension to the 16 week timetable before an application can be validated (or considered to be complete).

45. A system is in place to then manage **validated applications**, through the **Pre-Panel Preparation** stage. This stage involves the preparation of the digital panel file, evidence review, allocation for listing and finally formal listing for consideration before a panel. This part of the process accounts for **7 weeks** of the 16 week timetable.

46. A separate management system is in place to monitor Rule 4 **non-compliant or incomplete** applications, with the purpose of reminding solicitors and unrepresented applicants to submit their missing material and pointing out that the **application cannot be progressed until all outstanding material is provided**. In an attempt to progress incomplete applications, the Redress Board has issued, on average, three reminder letters or update requests in respect of each of the **435 incomplete applications** received during the period 31<sup>st</sup> March 2020 to 31<sup>st</sup> March 2021.

## **DETERMINING AN AWARD**

### **Panels**

47. Applications for compensation are determined on the documentary material provided to a three-person Redress Board panel comprised of:-

- two non-judicial members, who come from a health and social care background; and
- a judicial member.

48. This combination of skills, knowledge and perspectives brings a necessary balance to the panel's determinations. The Interim Advocate and local political parties lobbied for the composition of panels in this form during the summer of 2019 and their lobbying resulted in this change being incorporated into the Act.

49. The non-judicial panel members bring a wealth of experience from a range of roles including:

- advisors and facilitators to the HIA Acknowledgment Forum and the Independent Inquiry into Child Sexual Abuse (IICSA) in England & Wales;
- former child care and protection social workers working with vulnerable children and adult survivors of childhood sexual abuse; and
- members of advisory and training bodies in the area of present and historic child and adult abuse.

50. The legislative and Board processes allow an applicant who provided evidence to the HIA Inquiry to proceed with their application based on their evidence as provided to the HIA Inquiry, i.e. without the provision of any other information, should they choose to do so. Beyond that, the primary source of information that will be considered by a panel is the applicant's Statement of Experience and any supporting information or evidence such as GP records, expert reports or counselling notes that the applicant or instructing solicitor has provided in support of the application. Each panel file also contains the relevant conclusions on each of the institutions as investigated by the HIA Inquiry or as established by the Board's own investigations, in accordance with the Rule 7 procedure insofar as they are relevant to the application.

51. Each panel file is read in detail by the panel members in advance of a panel sitting and then collectively assessed by the panel during the panel sitting, which is currently held virtually. The non-judicial members of the panel lead the panel discussions whilst the judicial chair is responsible for summarising the collective findings of the panel at the end of the assessment. Following a panel sitting, the judicial member prepares the panel's Summary of Reasons to reflect the collective assessment. That document is circulated for review and/or amendment by all of the panel members. In short, it is entirely a collective decision.

52. A panel can, if it considers it necessary to do so, adjourn its consideration of an application to seek further evidence or additional detail from the applicant to further inform its determination of the application.

#### **Section 14 – Initial Payment Orders**

53. Where the panel appointed under section 8 determines that compensation should be awarded but has yet to determine the final amount of compensation, for example, if it has sought further evidence, it may, if it considers it appropriate to do so, order the amount of £10,000 to be paid as interim compensation pending the completion by the panel of its final determination of the amount of compensation.

#### **Redress Board Banding Guidance**

54. The Act did not include an Assessment Framework nor did the Executive Office choose to prepare such a framework. Consequently, between January 2020 and March 2020 the shadow Redress Board engaged with the Interim Advocate, as the representative of victims and survivor groups, to develop Banding Guidance and Examples of Abuse, for the purpose of providing guidance to (i) applicants, when submitting an application and (ii) to panels, when assessing and determining the value of an award. That information is readily available to inform the process and to assist applicants and their advisors. It also is helpful in securing consistency of awards.

55. On 10 March 2020, the Board's then President wrote to the Interim Advocate to acknowledge his support of the Board's approach to assessment which focussed on the nature and severity of the abuse, as described in the Statement of Experience, while also taking into account of the impact of that abuse on the applicant. The President's letter was shared with Victim & Survivor Group representatives.

56. The Redress Board's general approach to assessment, as informed by the, HIA Inquiry Report recommendations, and discussions with the Interim Advocate, was set out in Practice Direction No.1, published on 23<sup>rd</sup> April 2020 and which can be accessed at the following link: [HIA Redress Board - Practice Directions | HIA Redress Board \(hiaredressni.uk\)](https://hiaredressni.uk)

### **Assessment & Value of Awards**

57. Section 12 of the Act addresses the dual matters of the panel's assessment of the application and the amount of compensation that may be awarded. The range of compensation payable by a panel is:-

- An amount of £10,000;
- An additional amount not exceeding £70,000, if the panel is satisfied that an additional amount is justified by the severity of the matters raised by the applicant;
- A fixed amount of £20,000 if the applicant was migrated to Australia as a child under the Child Migrant Programme.

58. The maximum amount payable under the Scheme, is therefore is £80,000 or in the case of a child migrant, £100,000. The Redress Board considers all applications with fairness, empathy and compassion.

59. When making a determination the panel will consider:

- The nature of the abuse suffered;
- The severity of the abuse (including duration and/or frequency); and
- The impact the abuse has had on the applicant.

60. Panels consider applications in relation to a wide range of institutions, from orphanages, state and voluntary residential child care homes, juvenile justice institutions, industrial schools, certain hospital settings and, more recently, has dealt with applications involving prisons and mother and baby homes. There is infinite variety between applicants' experiences within these very different institutions and there is often a considerable difference between the periods that individual applicants have spent in institutions, from a few weeks (for example, a juvenile on remand) to almost their whole childhood (for example, a care home). The experiences that applicants have encountered vary from a harsh environment to the most grave and pernicious cases of physical and sexual abuse.

61. The Redress Board has set out its evaluative approach to determining awards within the financial range available to it under the Act. This is available through the Redress Board website. The Redress Board operates entirely independently within that evaluative framework and, contrary to some negative allegations, has no reason or motivation to deliberately seek to suppress the value of awards or to be overly captious in its consideration of the evidence before it. When making its determination the panel will consider the **nature, severity, duration, frequency and impact of the abuse** as detailed in the Statement of Experience, which forms the key part of the application.

62. The issue of consistency is an important matter, and is addressed through regular meetings of panel members, and the sharing of relevant appeal decisions with all panel members on the interpretation of the law, examples of abuse and use of the Banding Guidance. Panel chairs and panel members are also routinely rotated to share experiences and to support a consistent approach to decision making.

### **The Panel's Summary of Reasons**

63. A panel is required to provide sufficient reasoning to explain how it has come to its assessment in making an award determination, based on the Statement of Experience and any other information before it. This was the approach requested by the Interim Advocate in his correspondence of 5 March 2020.

64. The Summary of Reasons serves to acknowledge that the applicant's lived experiences have been considered and believed and to explain, where applicable, how the applicant did or did not, on the balance of probabilities, demonstrate that they had met the requirements of the legislation. This is a sensitive matter.

65. Panels use the International Lexicon of terminology which is recognised in referring to sexual abuse and, as explained to VSGs, the Board's Training and Insight Committee continually reviews the language used in the Summary of Reasons to ensure that empathetic trauma-informed language is used.

66. The Board acknowledges that the Summary of Reasons must both provide applicants with an understanding of the decision but it also must comply with the Act in giving legal reasons which may then be the subject of an appeal.

### **Oral Hearings**

67. The determination of applications is generally on documentary material, without the need for the applicant to participate in an oral hearing. This was a deliberate choice in the Legislation in order to minimise the potential for upset and distress and follows a key recommendation of the HIA Inquiry Report. Panels may, in exceptional circumstances, direct that an oral hearing be held with evidence given on oath.

68. To date panels have directed an oral hearing in respect of three of the 629 applications considered. Feedback has been sought from participants to learn lessons and to consolidate the Board's approach and refine our guidance, if required.

### **APPEAL PROCESSING**

69. Under the Legislation an applicant has 21 days from the date of the determination notice to either accept their award or submit an appeal. The Notice of Appeal must set out, in writing, the grounds of their appeal.

70. Section 16 of the 2019 Act requires that an appeal is by way of a reconsideration by a single judicial member of the evidence considered by the panel at first instance. An appeal is not, other than in exceptional circumstances, an opportunity to submit fresh evidence. A decision on appeal is final.

71. The single judicial member who determines the appeal may decide to:

- confirm the decision of the panel;
- reverse the decision of the panel; or
- increase or reduce the amount of the award of compensation.

72. In January 2021 the Redress Board published Procedural Guidance on appeals in relation to time extensions, the introduction of fresh evidence and oral hearings. This guidance can be found at [Appeals - Procedural Guidance - Time Extension, Fresh Evidence, Oral Hearings | HIA Redress Board \(hiaredressni.uk\)](https://hiaredressni.uk/appeals-procedural-guidance-time-extension-fresh-evidence-oral-hearings)

73. A system is in place to monitor the progress of both statutorily compliant appeals for reconsideration and for those appeals which present preliminary or legal matters, which go beyond a standard reconsideration.

74. All appeal decisions are closely monitored by the President and the single judicial member considering appeals to ensure that any learning points are captured and shared with all panel members.

75. The Redress Board has set an indicative **5 week** internal appeal management timetable to manage the progression of **compliant appeals** for reconsideration before a panel.

## **CHALLENGES**

76. Aside from the massive impact that came from Covid-19, during its first year of operation the Board has, unsurprisingly, been presented with a number of jurisdictional and practical challenges that policy makers and legislators had not fully anticipated, and with which we have had to contend. Some of these are summarised below.

### *Cohesiveness of Redress Services*

77. The Board acknowledges that the very fact of making an application for compensation will bring back painful memories and has the potential to re-traumatise some applicants. Before opening for applications the Board expressed its concerns to TEO officials about the availability of co-ordinated emotional, psychological and practical support services to help victims and survivors throughout the journey of making an application to the Redress Board and to assist in the financial and succession issues that can arise subsequent to the award of compensation. These are matters which we have continued to raise with TEO officials and the Commissioner during the period to which this Report relates.

78. The Board very much welcomes the recent initiative to extend the remit of the Victim & Survivors Service (VSS) [from June 2021- fully effective from September 2021] to help survivors record their lived experience in a way that assists in completing the Redress Board Statement of Experience without re-traumatising, but which at the same time meets the needs of panels.

79. The Redress Board is committed to working in partnership with VSS on how it may best support applicants to the Board, how it in turn engages with the applicant's

legal representatives to act in tandem to produce the fullest possible application with the minimum of trauma to the applicant. We look forward to seeing the product of that future co-operation.

#### *Legal Representation & Support*

80. On the question of legal representation, the HIA Inquiry Report highlighted that in order for applications for compensation to be successful, “**applicants to the HIA Redress Board, particularly those who were resident in an institution not investigated by the Inquiry, will require legal representation in order to obtain the necessary evidence to bring their application**”.

81. The Act and Rules provide for costs to be paid to solicitors in the expectation that they would support their clients throughout the application journey. 95% of applicants have chosen to be legally represented and the Board takes the view that it is the responsibility of the solicitor to provide support and advice to the applicant in respect of:-

- their eligibility to submit an application;
- the preparation of their application, including the completion of the statement of experience upon which their claim for compensation is based;
- the requirement to provide the necessary supporting evidence;
- the Board’s assessment process and (if applicable);
- the merits of any appeal.

82. The Board has made efforts to increase the legal profession’s awareness of the requirements of the scheme through;

- (a) the continued improvement and clarification of the Statement of Experience;
- (b) published guidance;
- (c) direct correspondence;
- (d) through the delivery of a Solicitors’ Information Event on 27 April 2021; and
- (e) ongoing engagement with Solicitors’ groups, such as the Criminal Lawyers’ Association and the Law Society of NI.

83. The information event was also recorded to act as a continuing reference point and provided information in relation to:-

- the application process;
- verification and validation;
- the importance of providing a detailed Statement of Experience;
- the Panel’s Determination process;
- Section 14 Orders; and
- appeals

84. As the Hart Report concluded the Board considers that the use of informed solicitors to help complete applications is invaluable in helping applicants recount their lived experiences. This key element of the process is clearly envisaged in the 2019 Act, which gives the Commissioner the power, under section 28, to establish a panel of solicitors to assist applicants. The Commissioner has the power to satisfy herself that those solicitors on the panel have the necessary expertise for providing



legal advice and assistance to applicants, both in respect of the application and appeal thereof. There would appear to be ample scope within this power to develop and demand the highest standards from panel solicitors in respect of the delivery of, suitable trauma-informed services for applicants. The appointment of the Victims & Survivors Service with effect [from June 2021 but effective from September 2021] to provide support to the legal profession within this sensitive area is very much to be welcomed and could usefully be codified through standard terms and conditions, promulgated and enforced by the Commissioner.

#### *Statement of Experience*

85. During the period covered by this Report, the Board has expressed its concerns to the legal profession, Interim Advocate, Commissioner, VSGs and TEO about the lack of detail contained in some Statements of Experience provided by instructed solicitors in support of applications. To further assist solicitors and personal applicants the Board reviewed and revised its “Statement of Experience” template with a view to encouraging those submitting applications to provide more detail around the nature, frequency and severity of abuse suffered and to help applicants to recount their lived experiences in a way that will best inform the decision making process. In consultation with both VSGs and the legal profession this has been positively received.

#### *Range of Institutions*

86. While the HIA Inquiry investigated only 22 institutions in Northern Ireland, the Legislation does not limit the scope of the Redress Board to these institutions. Indeed, to date, the Redress Board has received applications relating to approximately 80 additional institutions **not** previously investigated at the HIA Inquiry. More recently this has expanded to include adult prisons, hospitals and mother and baby homes – none of which were considered by Hart and indeed some of which were, in fact, were excluded from the Inquiry’s consideration. This, coupled with the absence of historical documentation in relation to some of these additional institutions, brings a host of challenges to the Board.

87. In respect of those institutions not investigated by the HIA Inquiry, the Board is required to establish:

- (a) firstly, if it is an institution, as defined by the Act; and
- (b) secondly, identify the management or successor body, society or organisation upon which to serve the Rule 7 Notice of Application.

88. The Board has experienced differing levels of co-operation from these institutions when undertaking its initial investigations and in identifying successor organisations, where these exist.

#### *Adult Prisons*

89. The Board has received a significant number of applications from categories of applicants that the Executive Office had not envisaged would fall within the scope of the scheme. During the period of this Report, the Board has received over 250 applications relating to the placement of remand or sentenced prisoners under the age of 18 who had been in adult prison establishments. Consequently, the Board has had to carefully consider the jurisdictional matters that arise, and then establish

procedures to investigate and obtain information to verify both attendance and the duration of attendance at such establishments on behalf of this constituency of applicants. This has taken both time and resources that were not initially envisaged.

#### *Mother & Baby Homes*

90. In addition, the Board identified a potential jurisdictional issue in relation to applications in respect of Mother & Baby Homes, which, as institutions, were excluded from the terms of reference of the HIA Inquiry. The Board sought to gain some early insight into the work being undertaken in relation to the report into Mother & Baby Homes and Magdalene Laundries. However, the Board was not permitted access to any findings and had to await the publication of the report in late January 2021 to help inform how to approach such applications in line with the definition of abuse as set out in the Act. The Department of Health has policy responsibility for this complex area to include the work of the Truth Discovery Design Team in developing the terms of reference for a fully independent investigation.

91. The Board has provided early visibility of these realities and matters to TEO officials highlighting policy considerations, as well as the need for strategic planning and resource implications. It has also highlighted the increasing need to carefully consider points of consistency and divergence in approach, between the various statutory compensation schemes.

#### **STATUS OF APPLICATIONS RECEIVED**

92. As of the 31 March 2021, panels made determinations totalling **£13.4 million**.

93. It is important to note that of the **1,273 applications** received during the first year of operations that **455 (36%)** were **non-compliant** with the information requirements set out in Rule 4 of The Historical Institutional Abuse Redress Board (Applications and Appeals) Rules (Northern Ireland) 2020.

94. As of the 31 March 2021, 134 of these applications did not comply with the statutory requirements **despite numerous contacts with instructed solicitors or unrepresented applicants**.

95. Of the **1,139 compliant** applications received **629** had been considered by a panel. The outcomes of those determinations are set out in Table 1 below:-

**Table 1 – Panel Consideration Outcomes**

<b>Redress Board Panel</b>	
Section 14 Initial Payment Order made and still in place (i.e. pending further information from the applicant)	<b>44</b>
Adjourned by panel for further information	<b>57</b>
Final Determination	<b>482</b>
Appeals Outstanding	<b>24</b>
Withdrawn by the applicant before a panel hearing	<b>22</b>
<b>Total</b>	<b>629</b>

The position with the remaining **510** applications is set out in Tables 2 below.

**Table 2 – Status of Current Applications**

<b>Redress Board Administration Position</b>	
Received – initial processing	<b>16</b>
Waiting for information – rule 7 response from an institution or statutory body	<b>151</b>
Waiting for information – Rule 7 response requires further investigatory steps	<b>144</b>
Validated - to be allocated for listing May 2021	<b>81</b>
Validated - Scheduled for listing in April 2021	<b>118</b>
<b>Total</b>	<b>510</b>

**Table 3 – Current Number of Incomplete Applications – Unable to Progress**

<b>Solicitor/Applicant</b>	
Incomplete applications	<b>134</b>
<b>Total</b>	<b>134</b>

96. A detailed breakdown of the performance of the Board during the unprecedented COVID-19 disrupted first year of operations is provided at paragraphs 103-116. An update to 31 December 2021 is provided at **Annex A**.

## **FUNCTIONS OVERVIEW**

97. Since its launch, the Redress Board has operated on a “**digital first**” footing. A solicitor can submit an application to the Redress Board using the **Solicitor Online Application Portal**. Alternatively, an applicant, or a solicitor, can request a hard copy application form, or download the application form from the Redress Board website and submit the application by post. It should be noted that **95%** of applicants are represented by a solicitor and **80%** of applications are received on-line.

98. The Solicitor Online Application Portal provides the solicitor, and by extension the applicant, with **real time information** about the status of the application and all correspondence and communications between the Redress Board and the applicant’s solicitor. All **communications** are undertaken using the **Secure Messaging** function within the Solicitor Online Application Portal.

99. During the first year of operations it is unfortunate that **435 (36%)** of those applications submitted were **not compliant** with the information requirements set out in Rule 4 of The Historical Institutional Abuse Redress Board (Applications and Appeals) Rules (Northern Ireland) 2020. The progression of these applications is solely in the control of the solicitor or unrepresented applicant, and cannot be progressed to consideration before a panel until the missing statutory documentation or evidence is provided. For clarity, an application is recorded as **non-compliant** and marked **incomplete** in the following circumstances;

- Application not accompanied with all of the Rule 4 application supporting materials;
- Applicant or solicitor advises that they wish to provide other missing information, medical evidence or expert report;

- Applicant or solicitor has not provided written confirmation of withdrawal of civil proceedings as required under section 4 of the Act;
- Applicant or solicitor has not provided the value and date of previous payments received as required under Section 13 of the Act.

101. The first four months of operation were notable for the number of submitted applications which lacked some or all of the necessary Rule 4 statutory proofs, namely certified copies of birth certificates, photographic identification and proofs of name change. In recognising the challenges faced by everyone, during the height of the pandemic, the Redress Board introduced a number of steps to assist solicitors in this regard including the introduction of a checklist to aid correct submission and a solicitor self-certification supporting material form.

102. From Quarter 3 the Redress Board noted an increasing number of submitted applications in which the instructed solicitor signalled their intent to provide GP records or expert reports **at a later date**, which is both inconsistent with the letter and spirit of Rule 4. It should be noted that 50% of the **134 non-compliant** applications at the 31<sup>st</sup> March 2021 were submitted before January 2021 and it remains a source of frustration that despite many reminders being issued that we are still unable to progress these applications. In these cases the Redress Board has been able to complete its Rule 7 investigations but cannot progress these applications without information from the solicitor or applicant. Reminders are issued on a regular basis, a function that is a drain on resources which could be better deployed elsewhere within the Redress Board. We have repeatedly drawn attention to this situation to the Interim Advocate, Commissioner, Victims & Survivors Groups and the Executive Office during the period of this Report.

#### *Applications Received*

103. Table 4, 5, and 6 below provides a quarterly breakdown of applications received by reference to the (a) Submission Method, (b) Hart & Non Hart Applicants and (c) Section 7 Priority Applications.

**Table 4 – Method of Submission**

	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>	<b>Total</b>
Hard copy applications	69	59	49	79	256 (20%)
Online applications	176	275	331	235	1,017 (80%)
<b>Total</b>	<b>245</b>	<b>334</b>	<b>380</b>	<b>314</b>	<b>1,273</b>

**Table 5 – Hart & Non Hart Applicants**

	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>	<b>Total</b>
Hart applications	87	69	54	18	228 (18%)
Non Hart applications	158	265	326	296	1,045 (82%)
<b>Total</b>	<b>245</b>	<b>334</b>	<b>380</b>	<b>314</b>	<b>1,273</b>

**Table 6 – Priority Applications**

	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>	<b>Total</b>
Priority applications	58	64	79	35	236 (19%)
Non Priority applications	187	270	301	279	1,037 (81%)
<b>Total</b>	<b>245</b>	<b>334</b>	<b>380</b>	<b>314</b>	<b>1,273</b>

#### *Priority Applications*

104. The Redress Board has an obligation under Section 7 of Act to prioritise, where possible, applications relating to applicants of 70 years of age or in ill health. It should be noted that 85 (36%) of the 236 priority applications submitted in this period were non-complaint. During the period of this Report, 76% of the 236 priority applications received were considered by a panel.

#### *Age Profile of Applicants*

105. Table 7 below provides a breakdown of the age profile of applicants to the Redress Board. The majority of applicants to the Redress Board fall under the age of 69. The largest age profile falls between the 50 to 59 age group.

**Table 7 – Age profile of applicants**

<b>Age Profile of Applicants at 31 March 2021</b>	
20-39	2.50%
40-49	15.60%
50-59	33.90%
60-69	32.90%
70-79	12.10%
80-89	2.80%
90-99	0.20%
Total	100.00%

#### *Panel Sessions*

106. During the period of this Report, Redress Board panels have met **virtually** on **195** occasions to consider **713 digital application** panel files. It should be noted that the same application may have been before a panel more than once during this period - usually after being adjourned for further information or final determination following a section 14 initial payment order.

107. Table 8 below, details the number of panel sessions each quarter, which has increased in line with the number of **compliant and validated** applications that are ready to proceed for consideration before a panel. It is important to note that a number of panel sessions initially scheduled between 23 April and 30 June 2020 did not proceed because there were insufficient numbers of **compliant and validated** applications available for consideration by a panel.

108. The Redress Board regularly reviews the number of panel sessions to ensure that there are sufficient panels to match the number of **compliant and validated**

**applications**, which is evidenced from the quarterly increase in panel sessions detailed in Table 8 below during this reporting period.

**Table 8 – Number of Panel Sessions and Applications Considered**

	Q1	Q2	Q3	Q4	Total
Number of panel sessions	15	37	61	82	<b>195</b>
Number of cases considered	47	149	198	319	<b>713</b>

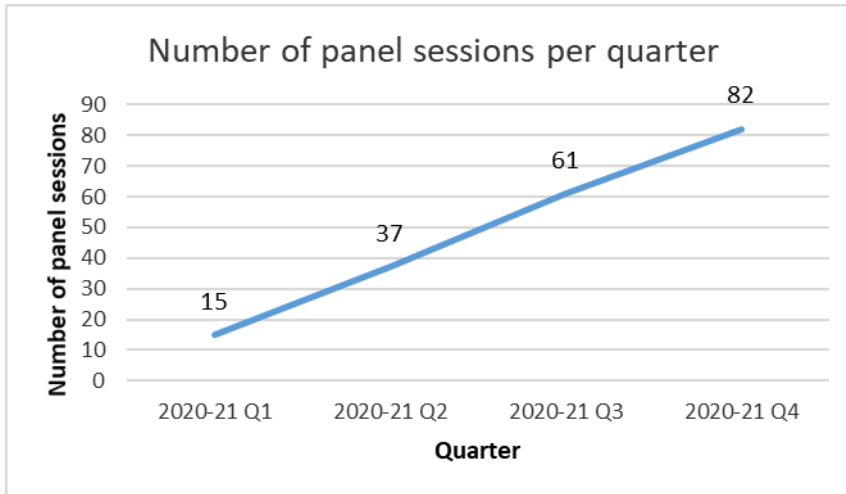


Table 9 below shows a breakdown of the outcome of panel considerations during this period.

**Table 9 – Breakdown of panel considerations**

	Q1	Q2	Q3	Q4	Total
Section 14 Order	7	10	33	26	<b>76</b>
Full Determination - award	27	109	102	227	<b>465</b>
Full Determination – no award	3	5	14	17	<b>39</b>
Withdrawn	5	6	2	9	<b>22</b>
Adjourned by panel	5	19	47	40	<b>111</b>
<b>Total</b>	<b>47</b>	<b>149</b>	<b>198</b>	<b>319</b>	<b>713</b>

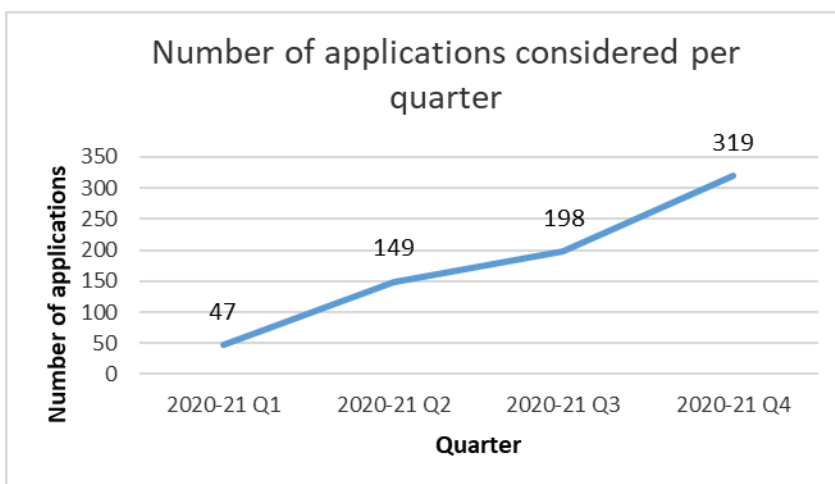


Table 10 provides a summary of the average timescale for consideration of an application.

**Table 10 – Average Timescale for Determining an Application**

Received to first considered by panel	16 Weeks
Validated to first considered by a panel	8 weeks

## AWARDS

109. The Redress Board has published Examples of Abuse and Banding Guidance. The bands are described in broad terms and with relatively broad ranges to take account of the infinite variety of factual situations. They are expressly provided only as guidance and are not to be considered as providing inflexible and formulaic scales for the panels.

110. These guidelines provide assistance to panels in determining the appropriate amount of compensation that should be awarded to an applicant in a consistent and transparent manner, taking account of the individual circumstances of each application. This approach is intended to provide consistency across the different panels.

111. Table 11 below sets out the number of final determination awards that have been made within each band (in Year 1) and includes awards made on appeal.

**Table 11 – Final Determinations**

Award Band	Number of Final Determinations
No Award	39
£10,000	60
£10,001 - £29,999	212
£30,000 - £49,999	129
£50,000 - £69,999	50
£70,000 - £80,000	16
<b>Total</b>	<b>506</b>

### *Accepting the award*

112. Under the Legislation an applicant has 21 days from the issue date of the Determination Notification to either accept or appeal the award. If an applicant accepts the award, they must provide the BACS details to which they want the payment to be made. The Redress Board will then issue an Instruction to the Department of Justice to make the payment to the applicant.

### *Appeals*

113. Section 16 of the 2019 Act requires that an appeal is by way of a reconsideration by a single judicial member of the evidence considered by the panel at first instance. Sir John Gillen, a former Lord Justice of Appeal, was appointed as the dedicated single judicial member to determine appeals.

114. As at 31 March 2021 a total of **62** appeals have been received. **37** appeals have been considered by a single judicial member with **11** being upheld and **26** dismissed confirming the panel decision. Table 12 details the number of appeal sessions.

115. The time taken to progress an appeal to decision is dependent on whether the Notice of Appeal grounds are limited to a reconsideration or if they present preliminary matters that go beyond a reconsideration. Table 13 summarises the average time taken to determine an appeal involving reconsideration and preliminary matters.

116. To date, **39% of appeals** submitted have raised preliminary matters including late appeals, the admission of fresh evidence or seeking an oral hearing. The Appeal Procedure Guidance explains that the Notice of Appeal must set out the exceptional reasons underpinning the preliminary matters for the single judicial member's consideration (as required by the Act). On too many occasions the Notice of Appeal does not set out these reasons and significant delay is incurred in obtaining these reasons from the solicitor, to inform the single judicial member's consideration.

**Table 12 – Appeal session days**

	Q1	Q2	Q3	Q4	Total
Appeal sitting days 2020-21	0	0	13	24	37

**Table 13 – Appeal Determination Timescale**

<b>Overall</b>	<b>5.5 weeks</b>
Reconsideration Only	3 weeks
Preliminary Matters raised in Notice of Appeal	14.5 weeks

## **GOVERNANCE**

117. The Redress Board is a body corporate and operates independently and at arms' length from the Executive Office under a Partnership Agreement, which explains the overall governance framework within which the Redress Board operates and provides the necessary governance assurances. The partnership is based on a mutual understanding of strategic aims and objectives, clear accountability and a recognition of the distinct roles each party plays.

118. The President has established a Management Board to provide effective leadership and strategic direction of the Board, and to ensure that the policies and priorities set by the President and Minister for the Executive Office are implemented. The Management Board is responsible for ensuring that effective and proportionate governance arrangements are in place and that there is an internal control framework which allow risks to be effectively identified and managed. The Management Board also sets the culture and values of the Redress Board.

119. The Redress Board has also established a Panel Members' Training & Insight Committee to meet the training needs of panel members – particularly important



given the complexities and sensitivities involved, as well as the continuous aspiration towards consistency.

120. The Executive Office has established an Accountability & Liaison Group, attended by senior Executive Office and Redress Board officials where key governance and operational matters are discussed. It should be noted that panel members are wholly independent in the performance of their decision making duties.

121. The Redress Board wishes to acknowledge the support provided by the Executive Office in approving business cases to increase resourcing levels within the Redress Board.

## FINANCIAL SUMMARY

122. Tables 14 to 17 provide a breakdown of the **£13,285,988** Redress Board expenditure for the period 31<sup>st</sup> March 2020 to 31<sup>st</sup> March 2021.

**Table 14**

<b>Redress payments made</b>	<b>Amount (£)</b>
Redress Payments made	<b>10,467,005</b>

**Table 15**

<b>Application Legal Costs &amp; Outlay</b>	<b>Amount (£)</b>
Legal costs paid to solicitors	209,122
Solicitor/applicant outlay & expenses	16,219
<b>Total</b>	<b>225,341</b>

The Redress Board pays legal representatives costs in accordance with the provisions set out in the Rules and the relevant [Table of Scale Costs](#) in the supporting Schedule.

**Table 16**

<b>Panel costs</b>	<b>Amount (£)</b>
<b>Total</b>	<b>1,089,701</b>

**Table 17**

<b>Administration costs</b>	<b>Amount (£)</b>
Staffing	1,191,248
Accommodation	159,877
IT Costs	67,966
Miscellaneous	84,849
<b>Total</b>	<b>1,503,941</b>

## CRITICAL OBSERVATIONS

123. In this part of the report the Redress Board believes it appropriate to acknowledge reported criticisms of its operations and policies and to fully respond to them.

### *Time Taken to Process Applications*

124. During meetings with Victims & Survivor Group in November 2020 and March 2021, questions were asked about the time taken to determine applications. It is both right and proper for the Redress Board to be challenged on the time taken to progress applications. It is also important that the Redress Board presents all available information in its entire context so that it may be objectively analysed and considered.

125. We have attempted in those meetings and in this Report to set out all of the realities of the Rule 4 and Rule 7 procedures under which the Redress Board must statutorily operate, including the additional investigatory steps undertaken in the knowledge that each application is unique and needs to be individually assessed.

126. We have, during the period of this Report, regularly shared the performance figures and drawn attention to the number of **non-compliant** applications submitted to the Redress Board and the impact which they have on the processing of compliant applications.

127. We have drawn attention to the number of institutions not investigated by the Historical Institutional Abuse Inquiry. This poses significant challenges in identifying a successor management body for the named institution on which to then serve the Rule 7 Notice, and to establish if the named institution properly falls within the definition of an “institution” under the Act.

128. The decision to establish the Redress Board on 31<sup>st</sup> March 2020, during the height of the pandemic, was taken following discussions between the First Minister and Deputy First Minister, the Head of the Civil Service, the Interim Advocate, Victims & Survivor Groups and the first President of the Redress Board. In doing so the First Minister and Deputy First Minister issued a Press Statement on 31<sup>st</sup> March 2020 stating:

***“With the coronavirus outbreak, this is a challenging time for government and indeed for society as a whole. However, we owe it to victims and survivors to ensure work continues in this key area as far as is possible in the current circumstances. Decisions will inevitably take longer than originally planned but victims and survivors can be assured we are committed to doing all we can to progress payments. Redress panel members and staff are working from home, so you can help us by applying through a solicitor, which keeps the applications digital.”***

129. Immediately prior to the launch Executive Office officials liaised with Victims & Survivor Group leaders to advise them that the time taken to determine an application would inevitably be longer and that progress would depend on the information readily available to the Redress Board due to the impact of the emergency Coronavirus legislation.

130. The Redress Board did not, and does not attempt to use the cover of the unprecedented pandemic to excuse its own performance. In the circumstances the Redress Board sought to establish a **16 week timetable** within which to progress **compliant** applications to consideration before a panel.

131. In this Report we have set out the average processing time from both receipt and validation to final determination, which must be treated with a degree of caution as it will not be representative of some applicant's individual circumstances and experience, with some applications taking much longer and some taking less time, which is entirely depending on the nature and type of the application(s) or the issues they present.

132. During the period of this Report, the Board has delivered on its undertaking to VSGs to increase the number of panel sessions in alignment with any corresponding increase in the number of **compliant and validated applications**. The success of this strategy is evidenced by the quarter on quarter increase in panel sessions set out in this Report. It is hoped that the addendum to this Report, which sets out the performance figures at the end of December 2021 will provide further assurances on this point.

133. We have in this Report provided a detailed breakdown of the performance of the Board during the unprecedented COVID-19 disrupted period. By way of comparison we have attached the first year figures for other individual redress payment schemes at **Annex B**.

#### *Lack of Communications with the Redress Board*

134. We understand that Victims & Survivor Groups have commented that the redress process is impersonal and that there is lack of communication between the Redress Board and applicants and also with VSG leaders.

#### *Individual Applicants*

135. In recognising this observation we believe it is important to set out some background to this sensitive and important area. The Hart Report highlighted the important role for legal representatives in assisting applicants to pursue their claims effectively, particularly those who were resident in an institution not investigated by the Historical Institutional Abuse Inquiry, especially in obtaining the necessary evidence to support their application.

136. In recognition of the undoubted complexities and challenges of the legislation the UK Parliament and Northern Ireland Assembly provided for legal assistance and advice from solicitors to assist applicants, to advise them on the relevant provisions such as entitlement, supporting evidence and assessment process, and to prepare and submit applications on their behalf. It is important to note that 95% of applicants have chosen to be legally represented.

137. It is on this basis that the Redress Board adopted the conventional court and tribunal practice of communicating directly with an applicant's instructing solicitor. This position was clearly communicated to Executive Office officials and the Interim Advocate in early November 2019 and December 2019. This was to ensure that there would be no misunderstanding of the role of the Redress Board, or suggest anything which could be construed as undermining the important and valuable role of solicitors in providing independent legal advice and assistance to applicants.

138. The Redress Board was fortified in this position given the provisions of section 28(4) of the Act, which provides the Commissioner with the power to establish a panel of solicitors and by doing so to set appropriate terms and conditions. The Commissioner could thus be satisfied that the members of such a panel would have the necessary expertise, experience and empathy to provide appropriate legal advice and assistance to applicants, in a trauma-aware and victim focused manner, and who could be held to these standards by the Commissioner, through a code of practice or simple terms and conditions of appointment.

139. We are aware from our interaction with some applicants that some solicitors have failed to update applicants adequately, or at all, and the Redress Board has genuine sympathy with the experience of those applicants. The Redress Board recognises that solicitors, amongst others, have had to adapt their services when faced with the initial challenges of the Covid-19 pandemic, however, solicitors have an obligation to update applicants as regards the progress of an application and are enabled to do so through the 24/7 access via the dedicated online portal.

140. In response to these and other observations the Board arranged an information event in April 2021, in conjunction with the Law Society, which was attended by approximately 60 solicitors. The aim of this was to increase the legal profession's awareness of the requirements of the scheme - including their professional obligation to regularly communicate with their clients.

141. The Redress Board recognises the critical role provided by solicitors and is committed to working with solicitors to improve the level of communications. The Redress Board will continue to liaise where appropriate with the Law Society and will work with them on providing further Information Sessions for the legal profession. It also welcomes the introduction of VSS into the formulation and presentation of applications.

#### *VSG Leaders*

142. The Redress Board is both concerned and surprised that some VSGs appear to have formed the view that the Redress Board is unwilling to either meet or communicate with them. The Redress Board has always understood the role of Interim Advocate and more lately the Commissioner to be the conduit between VSGs and the Redress Board officials, and we have been guided by those Offices on the need for meetings as and when necessary.

143. For the record, the Redress Board has facilitated all requests for meetings and answered all correspondence from VSGs. For the avoidance of any confusion, the Redress Board is more than content to continue to meet with VSGs on appropriate matters and **we will write to VSGs to bring forward their suggestions for a timetable of engagements.** To date we have extended 6-monthly invitations to each VSG and we understand that these engagements and dialogues to be generally viewed as positive and constructive.

#### *The Redress Scheme is legalistic and re-traumatising*

144. Some VSGs have commented that the redress scheme and process is too legalistic and re-traumatising. The Redress Board fully acknowledges that the process of making an application for compensation has the potential to re-traumatise

applicants. We have expressed our reservations about the divergence in timeline for the establishment of the Redress Board and the co-ordination of emotional support services available to assist potential applicants with applications to the Redress Board. The two logically must operate in parallel.

145. We recognise the efforts of the Executive Office and the Interim Advocate, in difficult circumstances, to try and implement such services on a cohesive basis, which have (until recently) been implemented in a fragmented approach some considerable time after the Redress Board opened for applications. The reality is that these necessary services were not aligned or integrated and it appears to the Redress Board they still remain quite disparate. We have asked TEO officials to establish and lead a forum comprising VSS, COSICA, and Redress Board officials to review the cohesiveness of all redress services.

146. The Act and Rules governing the functions of the Redress Board have their genesis in the recommendations of the Hart Report, the majority of which, in some form, were transposed into legislation following a public consultation undertaken by the Executive Office and subsequent discussions with local political party leaders.

147. The Redress Board is required to operate within the constraints of the statutory framework of the Act and the Rules, which have been set by the UK Parliament and the Northern Ireland Assembly, and not by the Redress Board. There are both statutory and procedural requirements that must be adhered to by the Redress Board, institutions and applicants.

148. Where the Act and Rules provide a discretion to the Redress Board it will generally seek to apply that discretion liberally and in favour of the applicant but unfortunately the Redress Board simply cannot do things that it is not permitted to do under the Legislation. The Redress Board must act within the parameters of the Act.

149. The Board is aware that there has been some adverse comments made about the language that has been used in some of our correspondence which is sometimes required to communicate statutory effect and how this may be viewed as being legalistic or lacking in empathy in the absence of an explanation by an instructed solicitor. **The Board has written to VSGs to ask them to nominate a representative to work with Board officials on making adjustments, where possible, to our correspondence.**

## **OPPORTUNITIES FOR IMPROVEMENT**

150. The Redress Board has previously identified to the Executive Office, in the light of operational experiences to date, what it believes to be suboptimal, confusing or contradictory provisions within the Legislation and will pursue these more rigorously with officials.

151. The Board currently receives **5% of applications from unrepresented applicants** and has developed an Unrepresented Applicant Online Portal to assist this constituency of applicants. We have extended an invitation to VSGs to a demonstration of this portal, to review the guidance on its use, and to agree a launch date for this option for unrepresented applicants.

152. The Board has invited the Executive Office to approve and fund a feasibility study, to be undertaken by appropriate technical experts, on the scope to provide **represented applicants** with direct and secure access to the Solicitor Online Application Portal so that they can directly be sighted on the status of their application.

153. The Board will **publish new guidance for applications made in respect of a deceased person** to address some of the uncertainties in both the Rules and the Act on this complex matter.

154. The Board **has completed three oral hearings and has sought informed feedback**, at an appropriate point, to establish learning points for inclusion in amended Guidance for Attending an Oral Hearing, which will be shared with VSGs for their observation.

155. The Board will write to all applicants and/or their solicitor(s), in respect of all **non-compliant** applications, received **during the first year of operation** advising what information still remains outstanding and for how long. This will be a significant resource undertaking.

156. The Board met with the researchers of the Report into Mother & Baby Homes and Magdalene Laundries **to consider any potential implications of this Report on the jurisdiction and functions of the Redress Board**. We will continue to liaise with TEO in respect of any future impact of the recommendations of Truth Recovery Design Panel on the functions and operations of the Redress Board.

157. The Board will look forward to developing closer working relationships with VSS officials in respect to their new remit and will discuss opportunities for VSS to submit **on-line applications for unrepresented applicants** in a similar fashion to that undertaken by Child Migrant Trust officials.

158. The Board will continue to work with institutions and other record holders to streamline and improve where possible the records verification process.

## Annex A – Key Performance Summary as at 31 December 2021

As at 31 December 2021, the Redress Board has received **2,267** applications. Unfortunately, **186** of these applications did not comply with the Rule 4 statutory requirements and remain **incomplete**. It is important to note that the Board has elected to issue the Rule 7 Notice to verify the applicant's attendance at an institution this process regardless of whether or not an application is complete in order to reduce any further delay. However, these applications cannot be progressed to a panel until the outstanding information is provided by applicants and so fall outside the control of the Board and are discounted for the purposes of this summary.

Redress payments paid out over 3.5 times the amount paid during the same period last year. **£20.1m** was paid in in the first three quarters of 2021-22 compared to **£5.7m** the same period in 2020-21.

Almost three times the number of panel meetings were held in the first three quarters of 2021-22 (**317**) compared to the same period in 2020-21 (**113**).

Over three times the number of applications were considered at panel meetings in the first three quarters of 2021-22 (**1,256**) compared to the same period in 2020-21 (**394**).

### Current Number of Incomplete Applications – Unable to Progress

Solicitor/Applicant	
Incomplete applications	<b>186</b>

### Current Case Status of Complete Applications

The tables below show the current status of all **2,081 complete** or compliant applications as at **31 December 2021**.

#### Panel Consideration Outcomes

Redress Board Panel	
Section 14 Initial Payment Order made and still in place	<b>25</b>
Adjourned by panel for further information	<b>72</b>
Final Determination	<b>1,474</b>
Final Determination - Appeal Outstanding	<b>61</b>
Withdrawn before a panel	<b>77</b>
<b>Total</b>	<b>1,709</b>

#### Status of Current Applications

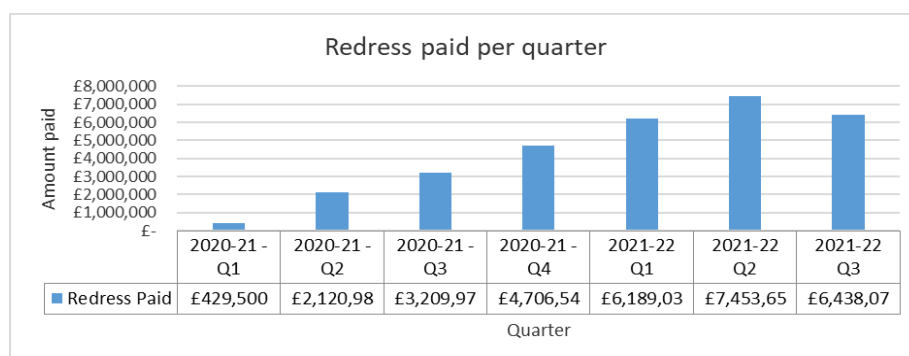
Redress Board Administration	
Received yet to be processed	<b>0</b>
Waiting for information - Rule 7 response	<b>108</b>
Rule 7 response requires further investigatory steps*	<b>111</b>
Validated - to be allocated for listing review	<b>58</b>
Validated - Scheduled for listing in January	<b>95</b>
<b>Overall Total</b>	<b>372</b>

*\*If the Redress Board receives a Rule 7 Notice response that does not confirm the applicant's attendance it will undertake additional investigations on behalf of the applicant, to source alternative information from other statutory and voluntary bodies and record archives to confirm the statutory information requirements of the Rule 7 Notice.*

## Payments Summary

As at **31 December 2021**, Redress Board panels have made award determinations totalling **£34,006,500** including Section 14 awards. Following section 13 actuarial adjustments, **£33,122,876** is payable to applicants.

**£30,547,756** has been paid directly into the applicant or applicant's solicitor's account on receipt of an Acceptance of Award from the applicant.



## Appeal Summary

As at **31 December 2021**, the Redress Board has received **231** Notices of Appeal.

**170** appeals have been considered by a single judicial member with **60** being upheld and **110** dismissed confirming the panel decision.

## Applications Received

The Redress Board has received **2,267** applications for compensation.

	Q1	Q2	Q3	Q4	Total
<b>Applications Received 2020-21</b>	245	334	380	314	<b>1,273</b>
<b>Applications Received 2021-22</b>	368	365	261		<b>994</b>
<b>Total Applications Received</b>					<b>2,267*</b>

*\*186 of these applications did not comply with the Rule 4 statutory requirements and remain incomplete and cannot be progressed until the outstanding information is provided.*

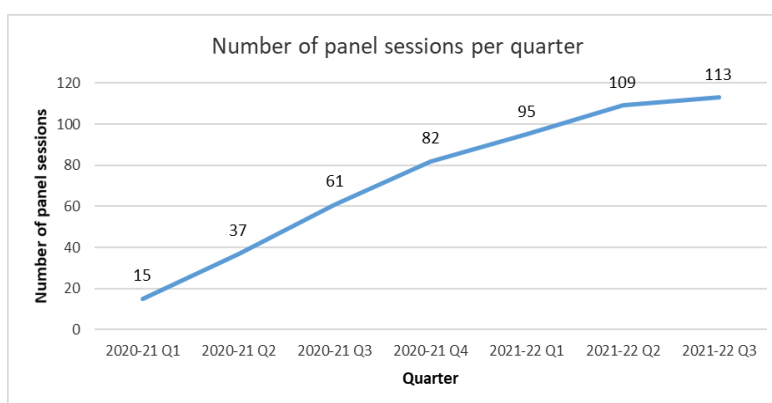


## Panel Sessions

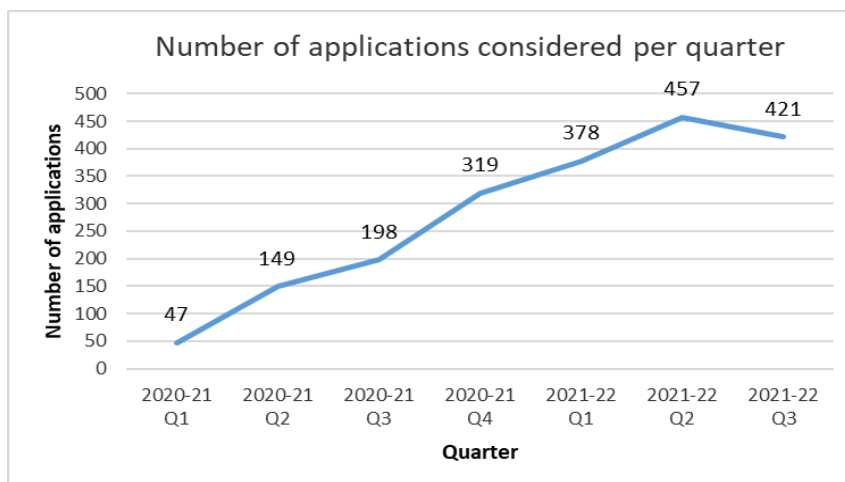
Redress Board panels have met on **512** occasions considering **1,969** applications. It should be noted that the same application may have been before a panel more than once during this period.

Further to this a single judicial member has sat on **129** days dealing with the work associated with appeals.

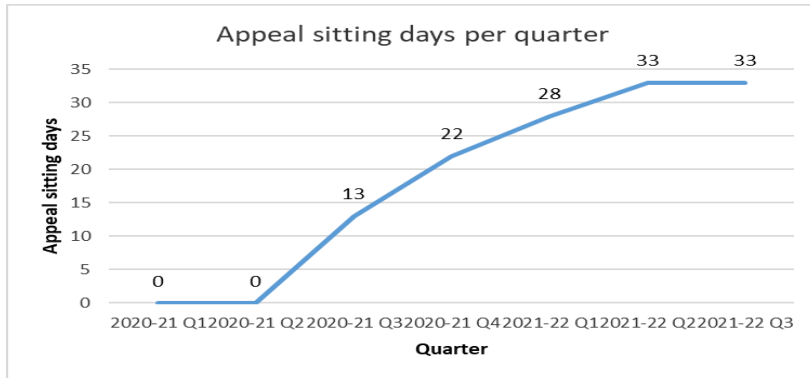
	Q1	Q2	Q3	Q4	Total
<b>Number of panel sessions 2020-21</b>	15	37	61	82	<b>195</b>
<b>Number of panel sessions 2021-22</b>	95	109	113		<b>317</b>
<b>Total Panel sessions</b>					<b>512</b>



	Q1	Q2	Q3	Q4	Total
<b>Number of cases considered for determination 2020-21</b>	47	149	198	319	<b>713</b>
<b>Number of cases considered for determination 2021-22</b>	378	457	421		<b>1,256</b>
<b>Total cases considered for determination</b>					<b>1,969</b>



	Q1	Q2	Q3	Q4	Total
<b>Appeal sitting days 2020-21</b>	0	0	13	22	<b>35</b>
<b>Appeal sitting days 2021-22</b>	28	33	33		<b>94</b>
<b>Total Appeal sitting days</b>					<b>129</b>



### Panel Outcomes

The table below shows a breakdown of the **1,969** applications considered at a panel session. It should be noted that the same application may have been before a panel more than once during this period.

	2020-21				2021-22				Total
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
<b>Adjourned by panel</b>	5	19	47	39	38	40	55		<b>243</b>
<b>Section 14 Order</b>	7	10	33	26	15	16	7		<b>114</b>
<b>Withdrawn</b>	5	6	2	9	18	25	12		<b>77</b>
<b>Full Determination – no award</b>	3	5	14	17	47	68	98		<b>252</b>
<b>Full Determination - award</b>	27	109	102	228	260	308	249		<b>1,283</b>
<b>Total</b>	<b>47</b>	<b>149</b>	<b>198</b>	<b>319</b>	<b>378</b>	<b>457</b>	<b>421</b>		<b>1,969</b>

## Annex B

### First Year Individual Redress Payment Comparator

<b>Scheme</b>	<b>Applications Received</b>	<b>No of Individual Assessments</b>	<b>As a % of total</b>
Australia	4,200	239	5.6
Ireland	2,573	587	22
Lambeth	834	68	8.1
Northern Ireland	1,273	629	49

## Indicative timeline for processing complete applications

