



The Redress Scotland Panels (Standing Orders) 2022

Background

These standing orders record the determinations made by Redress Scotland in respect of procedures applying to Redress Scotland panels and other related matters under:

- sections 25(6), 36(5) and 56(2) of the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021;
- regulation 5(2) of the Redress for Survivors (Historical Child Abuse in Care) (Reimbursement of Costs and Expenses) (Scotland) Regulations 2021;
- regulation 9(2) of the Redress for Survivors (Historical Child Abuse in Care) (Payment of Legal Fees) (Scotland) Regulations 2021;
- regulation 3(7) of the Redress for Survivors (Historical Child Abuse in Care) (Payments Materially Affected by Error) (Scotland) Regulations 2021;
- regulations 10(2), 16(2) and 21(7) of the Redress for Survivors (Historical Child Abuse in Care) (Reconsideration and Review of Determinations) (Scotland) Regulations 2022; and
- all other powers available to Redress Scotland to determine procedures applying in respect of redress payments under Parts 3 and 4 of that Act and any other related matters.

Part A: Citation, commencement and interpretation

Citation

- A1. These standing orders may be cited as the Redress Scotland Panels (Standing Orders) 2022.

Commencement

- A2. These standing orders take effect on the day after they have been signed for, and on behalf of, Redress Scotland by the Chair of Redress Scotland.

Interpretation

- A3. In these standing orders, unless the content otherwise requires, the following terms have the following meanings—

“the Act” means the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021;

“applicant” means the person has made an application for a redress payment or a section 25 application;

“application for a redress payment” means an application for a redress payment provided to Redress Scotland by the Scottish Ministers under section 29(5) of the Act;

“Chair of Redress Scotland” means the member appointed by the Scottish Ministers to chair Redress Scotland under paragraph 1(1)(a) of schedule 1 of the Act;

“decision letter” means the letter prepared by a panel in accordance with paragraph F4;

“nominated beneficiary” has the meaning given by section 65(1) of the Act;

“overriding objective” means the overriding objective set out in paragraph B1;

“panel” means a panel of members of Redress Scotland referred to in paragraph D1;

“panel chair” means the panel member designated by the Chair of Redress Scotland as the chair of a panel in accordance with paragraph D3;

“panel proceedings” has the meaning given in paragraph B5;

“records” means the records of applications, requests for review, referrals and any other panel proceedings established and maintained by Redress Scotland in accordance with paragraph C1;

“records management system” the system or systems adopted by Redress Scotland to maintain the records;

“redress payment” has the meaning given to it in section 105(1) of the Act;

“redress scheme” means the scheme established by the Act for financial redress and related support for, and in respect of survivors of historical child abuse in relevant care settings in Scotland;

“referral for reconsideration” means a referral for reconsideration by Redress Scotland or the Scottish Ministers under—

- (a) section 75(1) of the Act;
- (b) regulation 2(1) of the Redress for Survivors (Historical Child Abuse in Care) (Payments Materially Affected by Error) (Scotland) Regulations 2021; or
- (c) regulation 20(1) of the Redress for Survivors (Historical Child Abuse in Care) (Reconsideration and Review of Determinations) (Scotland) Regulations 2022;

“relevant person” has the meaning given to it in section 60(4), 64(1) or 75(8) of the Act (as the context requires);

“request for a review” means a request for a review provided to Redress Scotland by the Scottish Ministers under—

- (a) section 26(3), 52(3), 54(4), 62(3), 68(3) or 76(3) of the Act;
- (b) regulation 3(2) of the Redress for Survivors (Historical Child Abuse in Care) (Reimbursement of Costs and Expenses) (Scotland) Regulations 2021;
- (c) regulation 7(2)(e) of the Redress for Survivors (Historical Child Abuse in Care) (Payment of Legal Fees) (Scotland) Regulations 2021;
- (d) regulation 3(3) of the Redress for Survivors (Historical Child Abuse in Care) (Payments Materially Affected by Error) (Scotland) Regulations 2021; or
- (e) regulation 14(2) or 21(1) of the Redress for Survivors (Historical Child Abuse in Care) (Reconsideration and Review of Determinations) (Scotland) Regulations 2022;

“section 25 application” means an application for permission to apply for a next of kin payment due to exceptional circumstances under section 25(5) of the Act;

“standing orders” means these standing orders; and

“working day” means any day which is not—

- (a) a Saturday;
- (b) a Sunday;
- (c) a day specified as a bank holiday in Scotland in or by virtue of the Banking and Financial Dealings Act 1971; and
- (d) any day where Redress Scotland is closed as publicised on the Redress Scotland website.

A4. In these standing orders—

A4.1. unless the context otherwise requires, a reference to a part or a paragraph is a reference to a part or a paragraph of these standing orders;

A4.2. unless provided otherwise in these standing orders or the context otherwise requires, any reference to a term defined in the Act has the meaning given to it in the Act; and

A4.3. where the time prescribed by these standing orders for doing any act expires on a day which is not a working day, that act is done in time if it is done on the next working day.

Part B: The overriding objective, application and modification of these standing orders

The overriding objective

- B1. The overriding objective of these standing orders is for all panel proceedings to be conducted fairly, justly and compassionately while at all times ensuring that all—
- B1.1. applicants;
 - B1.2. nominated beneficiaries;
 - B1.3. relevant persons,
- are treated with dignity, respect and compassion in accordance with section 13 of the Act.
- B2. Conducting panel proceedings fairly, justly and compassionately involves Redress Scotland—
- B2.1. dealing with the panel proceedings in ways which are proportionate to the complexity of the issues involved and any redress payment sought or involved;
 - B2.2. seeking informality and flexibility in any dealings with the persons mentioned in paragraph B1;
 - B2.3. working with the persons mentioned in paragraph B1 in the presentation of their—
 - B2.3.1. application for a redress payment;
 - B2.3.2. section 25 application;
 - B2.3.3. request for a review; or
 - B2.3.4. referral for reconsideration,so that the panel has sufficient information to determine any relevant issues without advocating the course that that person should take;
 - B2.4. making any reasonable adjustments sought by a person mentioned in paragraph B1 that may be made in accordance with the Act, any secondary legislation made under the Act or any guidance issued by the Scottish Ministers under section 106(1) of the Act;

- B2.5. avoiding delay, so far as compatible with the proper consideration of the issues involved;
 - B2.6. taking the unique experience of the persons mentioned in paragraph B1 into account; and
 - B2.7. having regard to the importance of avoiding re-traumatisation and adopting a trauma-informed in approach.
- B3. All panels, members and staff of Redress Scotland are to exercise their responsibilities in connection with panel proceedings in accordance with the overriding objective.

Application of these standing orders

- B4. These standing orders apply to all panel proceedings.
- B5. For the purposes of these standing orders, “panel proceedings” means:
- B5.1. the determination of a section 25 application;
 - B5.2. the determination of any matter under Part 4 of the Act in connection with an application for a redress payment;
 - B5.3. the determination of any matter in connection with a request for review;
 - B5.4. the determination of any referral for reconsideration; and
 - B5.5. the determination of any other matter that a panel may be authorised to determine or decide on behalf of Redress Scotland in accordance with paragraph 10 of schedule 1 of the Act or howsoever else arising.

Modification or adaptation of these standing order in particular cases

- B6. A panel chair may modify or adapt these standing orders in their application to any form of panel proceedings in accordance with paragraphs B7 to B10.
- B7. Paragraph B6 only applies where—
- B7.1. the panel chair considers that—
 - B7.1.1. exceptional circumstances exist; and
 - B7.1.2. the proposed modification or adaptation of the standing orders is merited in light of the overriding objective;

- B7.2. the panel chair has made a proposal to that effect to the Chair of Redress Scotland; and
- B7.3. the Chair of Redress of Scotland has approved that proposal (in whole or in part).
- B8. These standing orders may only be modified or adapted to the extent approved by the Chair of Redress Scotland.
- B9. The following standing orders may not be subject to modification or adaptation under paragraph B6—
 - B9.1. Part B (the over-riding objective, application and modification of the standing orders) (with the exception of paragraph B5);
 - B9.2. Part C (records and prioritisation of applications for redress payments and other panel proceedings);
 - B9.3. Part D (procedure for appointing a panel);
 - B9.4. Part F (decision-making by panels); and
 - B9.5. Part G (ancillary matters relating to panel proceedings).
- B10. Where the panel chair proposes any modification or adaptation of the standing orders pursuant to paragraph B7.2, all proceedings of the panel must be paused until the proposal is considered by the Chair of Redress Scotland pursuant to paragraph B7.3.
- B11. Any modification or adaptation of these standing orders in their application to any panel proceedings must be recorded in any minutes of the panel's sittings as approved by the panel chair.
- B12. The functions conferred on the Chair of Redress Scotland by paragraphs B7 and B10 may, in the absence of the Chair of Redress Scotland, be exercised by another member of Redress Scotland who has been authorised by the Chair of Redress Scotland to exercise those functions on the Chair of Redress Scotland's behalf.

Ambiguity, conflict and absence of provision

- B13. In the event—
 - B13.1. of any ambiguity or conflict in these standing orders; or
 - B13.2. a situation arising in which no provision is made by these standing orders; the panel chair will consider how to proceed, discuss this with the Chair of Redress Scotland, accepting any direction on how to proceed from the Chair of Redress Scotland

Part C: Records and prioritisation of applications for redress payments and other panel proceedings

Receipt and recording of applications for redress payments and other panel proceedings

- C1. Redress Scotland will establish and maintain records, in such form as Redress Scotland considers appropriate, of all panel proceedings and their determination.
- C2. The records will include the following information in respect of all panel proceedings—
 - C2.1. the date that—
 - C2.1.1. an application for a redress payment;
 - C2.1.2. section 25 application;
 - C2.1.3. request for a review;
 - C2.1.4. referral for reconsideration; or
 - C2.1.5. any other matter otherwise referred to a panel for determination,is provided to Redress Scotland (or, in the case of a referral for reconsideration made by Redress Scotland itself, the date that the referral is made);
 - C2.2. the age of the applicant, nominated beneficiary or relevant person;
 - C2.3. the type of redress payment (whether a fixed payment, individually assessed payment or next of kin payment) to which the panel proceedings relates;
 - C2.4. any health issues of the applicant, nominated beneficiary or relevant person disclosed in the application (or the application to which any request for a review or referral for reconsideration relates) or otherwise;
 - C2.5. the dates when any requests for further information or clarity have been sent to the Scottish Ministers by Redress Scotland;
 - C2.6. the date when a decision letter has been issued to the Scottish Ministers;

C2.7. any other information that the panel considers to be materially relevant to the determination of the panel proceedings or as may otherwise be requested by the Chair of Redress Scotland.

Prioritisation of applications for redress payments

C3. In making a decision under section 34(1) of the Act as to the order of priority in which applications for redress payments are to be determined, the Chair of Redress Scotland may, also have regard to the date on which an application for a redress payment is provided to Redress Scotland by the Scottish Ministers.

Prioritisation of panel proceedings other than applications for redress payments

C4. The Chair of Redress Scotland may also decide the order of priority in which any panel proceedings (other than applications for redress payments) are to be determined, as well as the order of priority as between any applications for redress payments and any other panel proceedings.

C5. In making a decision under paragraph C4—

C5.1. the Chair of Redress Scotland must, in particular, have regard to—

C5.1.1. the age of the applicant, nominated beneficiary or relevant person to which the panel proceedings relate; and

C5.1.2. the extent that it is disclosed to Redress Scotland (in any section 25 application, request for review, referral for reconsideration or other referral), the health of those persons.

C5.2. the Chair of Redress Scotland may also have regard to—

C5.2.1. the date on which:

(a) an application for a redress payment;

(b) section 25 application;

(c) request for a review;

(d) referral for reconsideration; or

(e) any other matter otherwise referred to a panel for determination,

is provided to Redress Scotland (or, in the case of a referral by Redress Scotland itself, the date that the referral is made);

C5.2.2. the date on which the initial application for a redress payment to which any request for review or referral for reconsideration was provided to Redress Scotland; and

C5.2.3. any other factors the Chair of Redress Scotland considers are relevant.

C6. The Records Management System will record and update—

C6.1. the order of priority according to which the applications for redress payments are to be determined as decided by the Chair in accordance with section 34(1) of the Act;

C6.2. any order of priority according to which any panel proceedings other than applications for redress payments are to be determined as well as the order of priority as between any applications for redress payments and any other panel proceedings pursuant to paragraph C4.

Part D: Procedure for appointing a panel

Application

D1. This part of the standing orders applies for the purpose of appointing a panel of members of Redress Scotland under—

D1.1. section 25(5) of the Act to determine an application for permission to apply for a next of kin payment due to exceptional circumstances;

D1.2. section 35 of the Act to determine an application for a redress payment;

D1.3. section 55 of the Act to determine a request for a review;

D1.4. section 75(2) of the Act to consider a determination which is referred for reconsideration where there is cause to believe it may have been materially affected by an error;

D1.5. regulation 4 of the Redress for Survivors (Historical Child Abuse in Care) (Reimbursement of Costs and Expenses) (Scotland) Regulations 2021 (to review a decision in relation to a reimbursement request);

D1.6. regulation 8 of the Redress for Survivors (Historical Child Abuse in Care) (Payment of Legal Fees) (Scotland) Regulations 2021 (to review an assessment of a fee payment request); and

D1.7. regulation 2(2) of the Redress for Survivors (Historical Child Abuse in Care) (Payments Materially Affected by Error) (Scotland) Regulations 2021 (to reconsider a decision to make a relevant payment which may have been affected by error);

D1.8. regulation 3(5) of the Redress for Survivors (Historical Child Abuse in Care) (Payments Materially Affected by Error) (Scotland) Regulations 2021 (to review a reconsideration a decision to make a relevant payment which may have been affected by error); and

D1.9. regulation 9(1), 15, 20(2) or 21(5) of the Redress for Survivors (Historical Child Abuse in Care) (Reconsideration and Review of Determinations) (Scotland) Regulations 2022,

or as may be otherwise appointed and/or authorised to determine or decide any other matter on behalf of Redress Scotland in accordance with paragraph 10 of schedule 1 of the Act or howsoever else arising.

- D2. In appointing a panel, the Chair of Redress Scotland shall have regard to the following matters:
- D2.1. the overriding objective;
 - D2.2. the relevant orders of priority in accordance with section 34 of the Act and/or part C of these standing orders;
 - D2.3. the availability and capacity of the members of Redress Scotland;
 - D2.4. Redress Scotland's objective that each panel has an appropriate combination of knowledge, skills and experience.

Equality of Panel Members

- D3. Except as provided for in paragraphs D5 and F3, all members of Redress Scotland appointed to a panel shall have equal responsibility for any determination that the panel makes with each member having one vote.

Panel Chair

- D4. The Chair of Redress Scotland shall designate one of the members appointed to a panel as the chair of that panel.
- D5. The panel chair's primary role is to—
- D5.1. manage the order of proceedings of the panel;
 - D5.2. chair any sittings of the panel;
 - D5.3. liaise with the staff of Redress Scotland over administrative arrangements;
 - D5.4. ensure a summary of the panel's determinations and the reasons for making such determinations are recorded in sufficient detail so as to enable any person required to review that determination to do so; and
 - D5.5. prepare and agree the decision letter with the panel.

Part E: Requests for further information and oral representation

Requests for further information

- E1. Where a panel proposes to request further information from an applicant, nominated beneficiary or relevant person, paragraphs E2 to E5 apply.
- E2. A panel may only request further information from an applicant, nominated beneficiary or relevant person where, following a sitting of the panel, the Panel Chair is of the view that—
 - E2.1. the contents of the application for a redress payment, section 25 application, request for review or referral for reconsideration and any accompanying information provided to Redress Scotland by the Scottish Ministers (or otherwise) are not sufficient to fully determine the matter before it; or
 - E2.2. further information is required or would be helpful to establish, clarify or expand on a particular issue which is relevant to the determination of the matter before the panel.
- E3. Subject to paragraph E4, any request for information from an applicant, nominated beneficiary or relevant person shall be made by Redress Scotland through the Scottish Ministers.
- E4. A panel may request an applicant, nominated beneficiary or relevant person to give oral evidence directly to Redress Scotland where—
 - E4.1. any further information sought by the panel has not (following reasonable efforts) been obtained, or cannot reasonably be obtained—
 - E4.1.1. by Redress Scotland from the Scottish Ministers; or
 - E4.1.2. from a third party in accordance with the provisions of Chapter 6 of Part 4 of the Act (provision of information and evidence); or
 - E4.2. the applicant, nominated beneficiary or other relevant person has given a clear expression of their preference to provide further information directly to Redress Scotland or the panel considering their application for a redress payment, request or referral.
- E5. The panel may not draw any conclusions where an applicant, nominated beneficiary or relevant person does not provide any further information in response to a request from a panel and, where applicable, must proceed on the basis of the presumption set out in section 36(3) of the Act.

Oral Representation

- E6. Where a request is made to an applicant, nominated beneficiary or relevant person to give oral evidence pursuant to paragraph E4 and the applicant, nominated beneficiary or relevant person has agreed to do so, Redress Scotland shall arrange for an oral session to which paragraphs E7 to E18 apply.
- E7. An applicant, nominated beneficiary or relevant person may be accompanied to an oral session by another person to act as a supporter, or if requested by the applicant, nominated beneficiary or relevant person and agreed by Redress Scotland, more than one person.
- E8. A supporter may assist the applicant, nominated beneficiary or relevant person by:
- E8.1. providing emotional support;
 - E8.2. helping to manage any documents or papers;
 - E8.3. taking notes of any statements, questions and answers; and
 - E8.4. advising the applicant, nominated beneficiary or relevant person on any matters arising during the course of the session.
- E9. Redress Scotland will consider what additional support may be necessary or desirable where the applicant, nominated beneficiary or relevant person is under the age of 18 and take appropriate steps to ensure that such support is made available to the applicant, nominated beneficiary or relevant person.
- E10. Redress Scotland may also consider whether an interpreter is necessary to assist an applicant. In these circumstances arrangements for an interpreter will be discussed in advance with the applicant including how the interpreter will assist in any oral session.
- E11. Redress Scotland will make all necessary arrangements with regard to the scheduling and conduct of an oral session in accordance with the overriding objective and taking into account the views and well-being of the applicant, nominated beneficiary or relevant person.
- E12. At an oral session—
- E12.1. at least one member of the panel appointed to determine the matter must be present;

- E12.2. the applicant, nominated beneficiary or relevant person is to be afforded the opportunity to make a prepared statement at the beginning and the conclusion of the oral session;
- E12.3. a panel member may ask questions of the applicant, nominated beneficiary or relevant person but the applicant, nominated beneficiary or relevant person is not required to answer the questions and is free to indicate that it is their preference not to answer a question or series of questions without giving any reason;
- E12.4. an applicant, nominated beneficiary or relevant person may request that the session be paused or brought to an end at any time without giving any reason;
- E12.5. an applicant, nominated beneficiary or relevant person is entitled to be represented and may authorise the representative to provide information on the applicant, nominated beneficiary or relevant person's behalf. However, oral testimony should normally be given directly by the applicant.
- E13. Any oral session may be cancelled, postponed, adjourned, paused and re-commenced by Redress Scotland taking into account the views and well-being of the applicant, nominated beneficiary or relevant person.
- E14. Subject to paragraphs E15 and E16, any oral session will be confidential and attendance will be restricted by Redress Scotland accordingly.
- E15. An oral session may take place with all individuals present in person or by any or all individuals being present by video link or such other means of communication made available by Redress Scotland as the Panel Chair considers is appropriate in the circumstances.
- E16. Redress Scotland will ask the applicant, nominated beneficiary or relevant person to provide evidence of their identity before any oral session commences.
- E17. Redress Scotland will make appropriate arrangements in order for a record of the oral session to be taken. As part of making these arrangements, Redress Scotland will discuss with the applicant, nominated beneficiary or relevant person their views on how the oral session will be recorded. Redress Scotland will then make the appropriate arrangements and inform the applicant, nominated beneficiary or relevant person of these. All panel members will be informed of the arrangements.
- E18. Redress Scotland is not responsible for reimbursing any expenses of the applicant in connection with an oral session which are subject to the regulations made by the Scottish Ministers under section 91 of the Act

Part F: Decision making by panels

Decision-making

- F1. A panel's function of determining any panel proceedings or other matter within its remit is to be exercised in accordance with paragraphs F2 to F8.
- F2. A panel shall endeavour to determine the matter by a unanimous decision of the panel members but where this is not possible, a decision may be reached by a majority of the panel members.
- F3. Where it is not possible for a majority of the panel members (for whatever reason) to agree a decision, the Panel Chair shall have a second or casting vote to break any deadlock.
- F4. The Panel Chair may not exercise their second or casting vote until all reasonable endeavours have been made by the members of the panel to agree the determination of the matter.
- F5. The Panel Chair shall ensure that the panel completes a written summary of the matters determined by a panel and the panel's reasons for reaching those determinations in accordance with any requirements of the Act (or any secondary legislation made thereunder) together with any other information which the Panel Chair considers is relevant in the form and format adopted by Redress Scotland ("**the decision letter**").
- F6. All panel members shall sign the decision letter.
- F7. Redress Scotland shall provide the decision letter to the Scottish Ministers where required by the Act (or any secondary legislation made thereunder).
- F8. No panel member or other member of Redress Scotland or member of staff should communicate the outcome of any matter determined by a panel to an applicant or any person other than the Scottish Ministers (unless there is no statutory basis for the outcome of the matter determined being communicated to the applicant).

Part G: Ancillary matters relating to panel processes

Correction of any clerical or minor errors

- G1. Redress Scotland may, at any time, correct any clerical mistake or other accidental slip or omission contained in a determination and/or decision letter containing the summary of reasons for that determination or any other decision, order or document produced by it, by sending notification of the amendment to the Scottish Ministers in accordance with any notification requirements set out in the Act.

Irregularities

- G2. Any irregularity resulting from failure to comply with any provision of these standing orders shall not, by itself, render any determination void.
- G3. Where these standing orders require a member of a panel to sign a document, and where by reason of death or incapacity the member of a panel is unable to do so, the other members of the panel dealing with the matter, shall sign the document.

Administration

- G4. Redress Scotland is to keep written records of all determinations made in respect of all panel proceedings including the reasons for those determinations.
- G5. The Chair of Redress Scotland may issue guidance notes to the members of Redress Scotland and provide for training to assist the members in the exercise of their functions in respect of panel proceedings and ensure consistency of decision-making across panels.
- G6. The Chair of Redress Scotland may arrange for a panel to receive external advice should a Panel Chair request this or the Chair of Redress Scotland considers that it is necessary or expedient in order for a panel to exercise its functions in relation to any panel proceedings.
- G7. Where a panel awards a redress payment to a person under the age of 18, it must record in its summary of the determination any directions and to the payment and management of the redress payment under section 51 of the Act. Redress Scotland shall keep records of all directions made under section 51 of the Act.