

A

GUIDE

TO THE

REDRESS SCHEME

UNDER THE

RESIDENTIAL INSTITUTIONS REDRESS ACT, 2002

(Effective from 2 December 2002)

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*The Residential Institutions Redress Board,
Belfield Office Park,
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Clonskeagh,
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A GUIDE TO THE REDRESS SCHEME UNDER THE RESIDENTIAL INSTITUTIONS REDRESS ACT, 2002

INTRODUCTION

The purpose of this Guide

1. The purpose of this Guide is to explain how the Redress Board established under the Residential Institutions Redress Act, 2002 (“the Act”) deals with applications for redress. The procedure followed by the Board is largely prescribed by the Act and by Regulations made by the Minister for Education and Science in accordance with the Act (a list of these Regulations is given in Appendix II to this Guide). The Board must also comply with all appropriate requirements of the general law. While every attempt has been made to ensure that this Guide complies with these legal requirements, in the event of a dispute it is the law, and not this Guide, which must be followed. The Redress Board will be pleased to send a copy of the Act and the Regulations free of charge to any person who requests them.
2. It must also be pointed out that this Guide does not cover all the circumstances which may arise in the course of dealing with an application or all the matters which may have to be decided by the Board. It is also possible that the procedure followed by the Board will be modified in the light of experience. For these reasons, new editions of this Guide may be issued from time to time.
3. The Board will in any case be pleased to answer any queries relating to its procedures. You may contact the Board as follows:

Postal address: Belfield Office Park, Beech Hill Road, Clonskeagh, Dublin 4

Telephone: 1 800 200 086 (Freephone) or 01 268 0029.

Fax: 01 268 0025

Email: info@rirb.ie

Website: www.rirb.ie

The general nature of the redress scheme

4. This scheme provides an alternative method of providing redress to those who as children were abused while resident in one or more of the institutions listed in the Act. The making of an application to the Redress Board does not involve the waiver of any right of action for damages which the applicant may have in the civil courts or elsewhere. But if an applicant decides to accept an award of redress from the Board, he or she must at that stage sign a formal waiver giving up certain rights of action which he or she may have against the Department of Education and Science and/or other persons or bodies.

Legal advice

5. You do not need legal advice or representation in order to apply for redress, and you may do so on your own or with the assistance of a relative or friend. If you do decide to seek legal advice to help you with your application and to present your case, the Board will pay the reasonable costs and expenses of these services.

The Redress Board

6. The Redress Board consists of a Chairperson and ordinary members appointed by the Minister for Education and Science. As provided in the Act, the Board and its members are wholly independent in the performance of their functions.
7. The Board has two main functions. The first is to make all reasonable efforts, through public advertisement, direct correspondence and otherwise, to ensure that persons who were residents of an institution listed in the Act are made aware of the existence of the Board, so that they may consider making an application for redress. It is then the Board's function in relation to each case in which an application is made to determine whether the applicant is entitled to an award, and, if so, to make an award in accordance with the Act which is fair and reasonable having regard to the unique circumstances of the applicant. An award made by the Board may be reviewed by the Review Committee set up under the Act.
8. In the performance of these functions, the members of the Board are assisted by –
 - (a) The Registrar, Secretary and other members of staff of the Board;
 - (b) Counsel and solicitors to the Board, and
 - (c) The Board's panel of medical advisers.

Annual report to the Minister for Education and Science

9. The Board is required to submit to the Minister for Education and Science –
 - (a) an annual report of its activities and particulars of its accounts;
 - (b) such additional reports on matters relating to the performance of its functions as are requested by the Minister.

No report made by the Board will identify any applicant, institution or person referred to in an application. Copies of all reports will be laid before each House of the Oireachtas by the Minister.

ENTITLEMENT TO REDRESS

The main rules of the scheme

- 10.** A person who makes an application for redress must establish four matters to the satisfaction of the Board in order to qualify for an award:
- (i) His or her identity;
 - (ii) His or her residence during childhood (i.e. while under the age of 18 years) in an institution listed in the schedule to the Act;
 - (iii) He or she was abused while so resident and suffered injury, and
 - (iv) That injury is consistent with any abuse that is alleged to have occurred while so resident.

Proof of identity

- 11.** An applicant for redress must provide the Board with evidence of his or her identity. For this purpose the Board will normally require an applicant to provide it with the original or a solicitor' certified copy of any two of the following documents:
- (a) Passport;
 - (b) Driving licence;
 - (c) Birth certificate;
 - (d) Marriage certificate;
 - (e) Pension book;
 - (f) Social welfare card or other document;
 - (g) A recent electricity, gas or other utilities bill, or
 - (h) Any other official document vouching identity.

An applicant's identity may also be established by the oral evidence of a responsible person. Where an application is made on behalf of a person who has died since 11 May 1999, the spouse or children of the deceased person may give oral evidence of his or her identity.

The meaning of "abuse"

- 12.** The Act provides that "abuse" of a child means –
- (a) the wilful, reckless or negligent infliction of physical injury on, or failure to prevent such injury to, the child;
 - (b) the use of the child by a person for sexual arousal or sexual gratification of that person or another person;
 - (c) failure to care for the child which results in serious impairment of the physical or mental health or development of the child or serious adverse effects on his or her behaviour or welfare, or

- (d) any other act or omission towards the child which results in serious impairment of the physical or mental health or development of the child or serious adverse effects on his or her behaviour or welfare.

The following are some particular examples of abuse for which redress may be payable:

TYPE OF ABUSE	EXAMPLES
SEXUAL ABUSE	Violent anal or vaginal penetration. Victim made to masturbate member of staff or perform oral-genital acts. Sexual kissing; indecent touching of private parts over clothing.
PHYSICAL ABUSE	Serious injuries requiring hospitalisation; profound deafness caused by blows to ears. Severe beating causing e.g. a fractured limb or leaving permanent scars. Corporal punishment more severe than was legally sanctioned at the time, but leaving no permanent physical signs. Gross over-work involving inadequate rest, recreation and sleep.
EMOTIONAL ABUSE	Depersonalisation e.g. through family ties being severed without justification or through deprivation of affection. General climate of fear and apprehension. Stigmatisation by staff, e.g. through repeated racist remarks or hurtful references to parents.
NEGLECT	Severe malnutrition; failure to protect child against abusive placements; inadequate guarding against dangerous equipment in work-place. Failure to provide legally prescribed minimum of school instruction; lack of appropriate vocational training and training in life skills. Inadequate clothing, bedding or heating.

13. It is *not* necessary for a person to have been prosecuted or convicted of any criminal offence in connection with the abuse suffered by an applicant.

The meaning of “injury”

14. The Act provides that “injury” includes physical or psychological injury and injury that has occurred in the past or currently exists. Redress under the Act is payable in respect of any injury which is consistent with any abuse suffered by the applicant while he or she was resident in a specified institution.

The following are some particular examples of injury for which redress may be payable:

NATURE OF INJURY	EXAMPLES
<p>PHYSICAL OR PSYCHIATRIC ILLNESS</p> <p>1. Physical injury</p> <p>2. Physical illness</p> <p>3. Psychiatric illness</p>	<p>1. Loss of sight or hearing. Loss of or damage to teeth. Permanent scar(s)/disfigurement.</p> <p>2. Sexually transmitted diseases. Respiratory diseases. Skin diseases.</p> <p>3. Severe depression with suicide attempts. Personality disorder. Post-traumatic stress disorder.</p>
<p>PSYCHOLOGICAL INJURY</p> <p>1. Emotional disorder</p> <p>2. Cognitive impairment/ educational retardation</p> <p>3. Psychosocial maladjustment</p> <p>4. Anti-social behaviour</p>	<p>1. Inability to show affection or trust Low self-esteem; persistent feelings of shame or guilt. Recurrent nightmares or flashbacks.</p> <p>2. Literacy level well below capability. Impoverished thought processes. Limited vocabulary leading to communication difficulties.</p> <p>3. Marital difficulties involving sexual dysfunction. Low frustration tolerance. Shyness and withdrawal from mixing with people.</p> <p>4. Substance abuse. Compulsive stealing. Physical aggressiveness.</p>
<p>LOSS OF OPPORTUNITY</p>	<p>1. Having to refuse employment opportunity/ promotion because of illiteracy.</p> <p>2. Need to concoct a false identity and to live a lie with workmates.</p> <p>3. Unable to pursue certain occupations, e.g. police, because of “record”.</p>

In every case the Redress Board will have to be satisfied that the particular injury resulted “as a consequence of the abuse” suffered by the applicant.

The meaning of “resident”

- 15.** Redress can only be paid to persons who as children were abused while “resident” in a specified institution. “Resident” is not defined in the Act, but normally means living and sleeping in a particular place for some time. A person who attended an institution only during the day-time will not be regarded as having been “resident” in that institution. In general the Board will consider whether the institution in question may be regarded as the applicant’s home at the time when the abuse occurred.

16. The Act makes three special provisions relating to this “residence” requirement:

- (i) “Residence” in an institution includes any case where a child was resident in an institution as a result of having been sent and detained there under the Children Act 1908 (section 1(4)).
- (ii) Abuse of a child “in an institution” includes any case in which the abuse took place, not in the institution itself, but while the child was residing or being cared for in the institution and the abuse was committed or aided by a person engaged in the management or supervision of the institution or a person otherwise employed in or associated with the institution (section 1(2)).
- (iii) A person who was resident in an institution and then transferred to another place of residence which carried on the business of a laundry and who suffered abuse while resident in that laundry “shall be deemed ... to have been resident in that institution” (section 1(3)).

Ineligibility for redress

17. Redress may not be payable to any of the following persons:

- 1. A person who was not “resident” for the purposes of the Act in one of the specified institutions when the abuse occurred.
- 2. A person who died before 12 May 1999.
- 3. A person who fails to make an application in the form prescribed by the Board within the time stipulated in the Act.
- 4. A person who fails to satisfy the Board that he or she is entitled to redress under the Act.
- 5. A person who has received damages from a court or a settlement in respect of the abuse and injuries described in the application for redress.
- 6. A person whose claim for damages in respect of the abuse and injuries described in the application for redress has been rejected by a court or which has been the subject of any other judicial determination (not being a determination concerning the Statute of Limitations or an interlocutory matter).

18. An applicant who gives false evidence to the Board may be guilty of a criminal offence. If found guilty, that person is liable -

- (a) on summary conviction to a fine not exceeding •3,000 or to imprisonment for a term not exceeding six months or to both;

- (b) on conviction on indictment to a fine not exceeding •25,000 or to imprisonment for a term not exceeding two years or both.

HOW THE REDRESS IS ASSESSED

19. The awards made by the Board are required by the Act to be “fair and reasonable having regard to the unique circumstances of each applicant”. But the Act also stipulates that in making an award the Board “shall have regard to” Regulations made by the Minister. Under the Act and the Residential Institutions Redress Act, 2002 (Assessment of Redress) Regulations 2002, redress is awarded under four headings, as follows.

(a) ***Redress in respect of the severity of the abuse and injury***

20. An award of redress in respect of the severity of the abuse and the injury suffered by an applicant is determined by a two-stage process. First, the Board assesses the weight to be attached to the different elements that go to make up the experiences of victims of abuse according to the following table:

Weighting scale for evaluation of severity of abuse and consequential injury

<i>Constitutive elements of redress</i>	<i>Severity of abuse</i>	<i>Severity of injury resulting from abuse</i>		
		<i>Medically verified physical/psychiatric Illness</i>	<i>Psycho-social sequelae</i>	<i>Loss of opportunity</i>
<i>Weighting</i>	<i>1-25</i>	<i>1-30</i>	<i>1-30</i>	<i>1-15</i>

The Board will first consider the severity of the abuse suffered by the individual applicant and make an appropriate award on a scale of 1 – 25, with 25 representing the most severe form of abuse. The Board will then, by reference to the medical evidence, assess on a scale of 1 - 30 the severity of the physical and/or psychiatric illness suffered by the applicant as a result of the abuse. It will next perform the same task with regard to the psycho-social sequelae of the abuse. Finally, on a scale of 1-15 it will assess the loss of opportunity suffered by the applicant. In this regard it should be noted that no redress is payable for loss of earnings as such, and the Board will not take into account (or pay for) any actuarial material relating to loss of earnings presented to it by or on behalf of an applicant.

21. These four separate weightings are designed to produce an overall assessment of the severity of the abuse and the injury suffered by the applicant. When they are added together, the Board will “stand back” and look at the case overall to see whether the total assessment reached in this way is reasonable in all the circumstances for the particular applicant; where necessary, it may make appropriate adjustments to the overall assessment.

22. The amount of redress will then be determined by reference to the Board's assessment of the severity of the abuse and the injury, according to the following redress bands:

Redress Bands

REDRESS BAND	TOTAL WEIGHTING FOR SEVERITY OF ABUSE AND INJURY/EFFECTS OF ABUSE	AWARD PAYABLE BY WAY OF REDRESS
V	70 OR MORE	•200,000 - •300,000
IV	55-69	•150,000 - •200,000
III	40 – 54	•100,000 - •150,000
II	25-39	•50,000-•100,000
I	LESS THAN 25	Up to •50,000

23. Where the abuse suffered by an applicant and the injury arising from the abuse are considered by the Board to be so serious as to constitute an exceptional case which cannot reasonably be provided for within these redress bands, the Board may deviate therefrom. In every such case, the Board is required to inform the Minister of its reasons for so doing.

(b) Additional redress

24. Where the injury suffered by an applicant was not restricted to specific acts of abuse, but was exacerbated by the general climate of fear and oppression which pervaded the institution in which he or she was resident, additional redress may be awarded by the Board. Without going into any question of fault on the part of any person or institution, the Board may make such an additional award where it is satisfied that it is appropriate to do so having regard to the exceptional circumstances of the case. Such additional award may not exceed 20 per cent of the redress otherwise payable as a result of the Board's assessment of the severity of the abuse and the injury suffered by the applicant.

25. No additional redress is payable on the principle of punitive or exemplary damages.

(c) Medical expenses

26. An award by the Board may include an award for medical expenses incurred or to be incurred in respect of medical treatment for the injury suffered by the applicant. The award will, for example, include the expense of medical treatment (including psychiatric treatment) for the injury resulting from the abuse which it was reasonable for the applicant to receive in the past and/or

which appears to the Board, on the basis of the medical evidence available to it, to be reasonable for him or her to receive in the future. The award for medical expenses will take the form of an additional award assessed on the basis of the evidence available to the Board, and in accordance with the Regulations made by the Minister.

27. The Board may in its assessment of the severity of the injury suffered by the applicant take into account the likelihood that the necessary treatment will have an ameliorative effect on the condition of the applicant in the future.

(d) *Other costs and expenses*

28. An award made by the Board may also include an award for reasonable expenses incurred in making the application to the Board.

WHEN AND HOW TO APPLY FOR REDRESS

Time limit for making application

29. An application for redress must be made to the Board within three years of the establishment day, in other words, before 2 December 2005. However, the Board may, at its discretion and where it considers there are exceptional circumstances, extend this time limit. In particular, the Board will extend the time limit where it is satisfied that an applicant was under a legal disability by reason of unsound mind at the time when the application should otherwise have been made, and the applicant concerned makes an application to the Board within three years of the cessation of that disability.

Application forms

30. An application for redress must be made in writing on a form prescribed by the Board. The Board has prescribed two types of application form, as follows:

General application form: This form must be used in any of the following cases:

- (1) Where an application is made by the injured person himself or herself;
- (2) Where an application is made on behalf of an injured person who is under the age of 18 at the time when the application is made, and
- (3) Where the application is made on behalf of an injured person who is incapable of managing his or her own affairs.

Application form (deceased persons): This form must be used in any case where the injured person has died since 11 May 1999 and an application is made on his or her behalf.

Applications on behalf of children under the age of 18

- 31.** An application on behalf of a child under the age of 18 should normally be made and signed by an adult with parental responsibility for the child – a natural parent, adoptive parent or any other person with legal parental responsibility for him or her. In all such cases the Board will ask for proof of the identity both of the injured person and of the applicant, and will also require to be satisfied that the person making the application is properly entitled to act on behalf of the injured person.

Applications on behalf of adults unable to manage their own affairs

- 32.** Where the injured person is an adult who is incapable of managing his or her own affairs, the application should be made on his or her behalf by a person properly authorised to do so. The Board will accept that a person is so authorised only where he or she provides the Board with appropriate evidence –
- (a) as to the identity of the applicant;
 - (b) that the injured person is incapable of managing his or her own affairs, and
 - (c) that the applicant is entitled to act on behalf of the injured person.

Applications on behalf of a person who died after 11 May 1999

- 33.** Where a person who is or may be entitled to redress has died since 11 May 1999 without making an application, the spouse or children of that person may make an application on his or her behalf. A “spouse” for this purpose includes a person with whom the deceased person is or was at a time cohabiting. But only one application may be made in respect of a deceased person.
- 34.** Where an injured person dies after making an application but before the application is settled or determined by the Board, his or her spouse or children may proceed with the application.

Evidence in support of application

- 35.** When making an application using the appropriate form, the applicant must also provide the Board with written evidence of –
- (a) his or her identity,
 - (b) his or her residence in the institution concerned,
 - (c) the abuse received while so resident, and
 - (d) the injuries received as a consequence of such abuse.
- 36.** An applicant is not in his or her application required to produce to the Board any evidence of negligence by an individual person or the employer of that person or by a public body.

37. Where an applicant fails to provide the Board with evidence of one or more of the matters listed in paragraph 35, the Board will so notify the applicant in writing, and no further consideration may be given to the application until that evidence has been received by the Board.
38. The written evidence in support of an application may take the form of one or more documents, and should normally be typewritten. The Board will accept hand-written documents only if they are fully legible. Where any supporting evidence is not legible in the opinion of the Board, it will be returned to the applicant and no further consideration may be given to the application until a legible statement has been received by the Board.
39. An applicant may also provide oral evidence in support of his or her application, and may be required to do so by the Board. Where an applicant intends to call witnesses to give oral evidence, he or she must, as soon as possible after making the application, provide the Board with a list of those witnesses, together with an indication of the evidence which they will give. The Board will not be able to arrange a hearing of the application until it has received this information.
40. For the purposes of establishing any of the matters listed in paragraph 35, the Board may, on its own behalf or if asked to do so by an applicant, request by notice in writing any person to produce to the Board and to the applicant any existing document in his or her possession, custody or control which relates to such matters. Where the Board is asked by an applicant to make such a request, the Board will do so only where it is satisfied that the applicant has first made all reasonable efforts to obtain the document and that the document is strictly relevant to one or more of the matters raised in the application.
41. A person to whom such notice is addressed shall provide the Board and the applicant with the document specified in the notice if it is in the possession, custody or control of that person. The Board will notify the applicant in writing if the document in question is not provided by the person concerned.

Onus on applicant

42. It is for the applicant to satisfy the Board that he or she is entitled to redress under the provisions of the Act. The more information which the applicant gives to the Board in support of his or her application the more speedily the Board will be able to determine the case.

Service of application and other documents

43. An application for redress and all other documents to be considered by the Board must be served on the Board -
 - (a) by registered pre-paid post addressed to the Board's office, or
 - (b) by delivery to the Board's office.

Service of the application form by post may be proved by production of a certificate of posting; service by delivery to the Board's office may be proved by an entry in the Board's records.

44. An applicant must include in the application form the full address for service of any documents from the Board. Where an applicant is represented by a solicitor, the address for service will be the business address of the solicitor, as stated in the application form, unless the applicant stipulates an alternative address for service.

HOW THE BOARD DEALS WITH AN APPLICATION

Confidentiality of proceedings by the Board

45. The Board will deal with all applications in the strictest confidence.

Acknowledgement of application

46. The Board will provide an applicant with a written acknowledgement of receipt of the application form. This acknowledgement will normally be sent within five days of receipt of the application by the Board and will assign to the applicant a personal reference code which he or she should always use when contacting the Board.

Applications given priority

47. In its consideration of applications, the Board will give priority to applicants –
- (i) who were born before 1 January 1933, or
 - (ii) who are at the time when the application is made suffering from a medical illness or psychiatric condition which is life-threatening, as confirmed in writing by a letter from their regular medical adviser.

Conduct of application

48. The Board has a general power to make such directions and arrangements for the conduct of the application, including the imposition of conditions, as it considers appropriate in all the circumstances.

Further information from the applicant

49. On consideration of an application and any supporting evidence, the Board may request further information or further evidence from the applicant. An applicant should note that if he or she fails to comply with reasonable requests for information or otherwise fails to give the Board full assistance in connection with the application, consideration of the application by the Board may be delayed and it is possible that the Board will not be satisfied that he or she is entitled to redress.

Enquiries of police and other bodies

50. In its consideration of an application, the Board may make its own enquiries as to any of the matters mentioned by the applicant from the Gardai/police, medical authorities and other relevant persons or bodies.

Notification of relevant person

51. The Act and Regulations made by the Minister require the Board, as soon as may be practicable following receipt of an application, to take such reasonable steps as are necessary to inform a “relevant person” that the application has been made. A “relevant person” for this purpose is –

- (a) any person who is referred to in the application as having carried out the acts of abuse described by the applicant, and
- (b) in the case of any institution referred to in the application as being the institution in which the those acts of abuse were carried out, the person who is concerned with the systems of management, administration, operation, supervision, inspection and regulation of such institution as the institution concerned may determine and specify in writing to the Board.

52. Where the Board so informs any relevant person, the Board will also provide him or her with a short summary of the application and invite him or her to provide it with any evidence in writing concerning such application as the relevant person considers appropriate. For this purpose, a relevant person will be entitled, on request in writing to the Board, to receive a copy of the application form together with a copy of any written evidence attached to that form which relates to the identity of the injured person or his or her residence in an institution or which concerns the circumstances of the abuse suffered by the injured person.

53. Where the Board receives written evidence from or on behalf of a relevant person, it will forward a copy of that evidence to the applicant.

Abandonment of application

54. A person who wishes to discontinue his or her application for redress may do so at any time by so notifying the Board in writing.

SETTLING AN APPLICATION BY AGREEMENT

55. Where an applicant has advised the Board in writing that he or she is willing to consider the possibility of settling the application without a hearing, the Board will in appropriate cases make an offer in settlement of the application.

56. Where any application is being considered for settlement it shall be referred to a settlement panel consisting of two members of the Board.

- 57.** An application will not be considered for settlement unless the settlement panel -
- (i) has obtained a report from a medical adviser to the Board in accordance with section 10(11) and (12) of the Act, and
 - (ii) is satisfied that –
 - (a) the evidence in relation to an application establishes that the applicant is entitled to redress under the Act, and
 - (b) it is not necessary in the interests of justice –
 - (i) to allow a relevant person either to give oral evidence to the Board or to cross-examine the applicant or any person giving evidence on behalf of the applicant, or
 - (ii) to allow the applicant to cross-examine the relevant person or any person giving evidence on behalf of the relevant person.
- 58.** Where the requirements set out in paragraph 57 are satisfied, the settlement panel will assess the amount of redress which should be offered to the applicant. When making this assessment, the panel -
- (i) will apply precisely the same criteria as are required by the Act to be applied by the Board, and which are summarised in paragraphs 19-28 above, and
 - (ii) may seek the advice of solicitor and/or counsel to the Board.
- 59.** When the settlement panel has made its assessment of the amount of redress to be offered to the applicant, it will notify the applicant in writing of the amount and request the applicant to notify the Board in writing whether he or she accepts or rejects it in settlement of the application. If no such notification has been received by the Board within one calendar month of the date of this notice, the applicant will be deemed to have rejected the settlement.
- 60.** Where an applicant accepts the amount assessed by the panel in settlement of the application, the settlement will be deemed to be an award of the Board. Accordingly:
- (i) The applicant must agree in writing to waive any right of action which he or she may otherwise have had against a public body or a person who has made a contribution under section 23(5) of the Act, and to discontinue any other proceedings instituted by the applicant, against such body or such person, that arise out of the circumstances of the application before the Board. No redress will be paid to an applicant until such a waiver signed by the applicant has been received by the Board.

- (ii) Costs will be awarded on the same basis and using the same procedures as if the application had been determined following a hearing by the Board, and
 - (iii) The Board will notify the Minister of the settlement for the purpose of section 13(13) of the Act.
- 61.** Where the applicant rejects the settlement or fails within the prescribed period to confirm in writing that he or she accepts it, the application will proceed to a full hearing by the Board. In every such case -
- (i) The Board members and the solicitor and/or counsel to the Board involved in the settlement will not disclose any information relating to the settlement to other members of the Board and will not take any part in the hearing of the application, and
 - (ii) The division of the Board which conducts the hearing will not be made aware of any attempt to settle the application, nor the amount of redress assessed by the settlement panel.

DETERMINATION OF AN APPLICATION BY THE BOARD

Notice of hearing

- 62.** When the Board determines that it is appropriate to do so, it will set a time and place for the hearing of an application. Written notice of the time and place of the hearing will be sent to the applicant, and in appropriate cases to the relevant person(s), at least six weeks in advance of the hearing. A request for a change of the date set for the hearing will only be considered by the Board in exceptional circumstances.
- 63.** Most hearings will take place at the Board's office in Dublin, but arrangements may be made for hearings to take place in other places within the state, as considered appropriate by the Board.
- 64.** Where an applicant is represented by a solicitor, the Board will send the solicitor a schedule of all the documents which will be considered by the Board at the hearing. A copy of any document which has not previously been sent to the applicant's solicitor will be sent to him or her in advance of the hearing. It is the responsibility of the applicant's solicitor to ensure that he or she has at the hearing a copy of all the documents to be considered at that hearing. Any request by a solicitor for an additional copy of a document must be made not less than four weeks before the date set for the hearing.
- 65.** Where an applicant is not represented by a solicitor, the Board will send him or her a copy of all the documents which will be considered by the Board at the hearing.

66. Where a relevant person is to attend a hearing, the Board will send him or her a schedule of all the documents which will be considered at the hearing, and ensure that a copy of any document which has not previously been sent to the relevant person is made available to him or her in advance of the hearing. It is the responsibility of the relevant party to ensure that he or she has at the hearing a copy of all the documents to be considered at that hearing.

Attendance at hearing

67. In accordance with section 10(13) of the Act, the Board will not proceed with a hearing in the absence of the applicant in person.
68. Where the Board has allowed a relevant person to take part in a hearing, it may conduct the hearing in his or her absence if it is satisfied that the relevant person has given no reasonable excuse for non-attendance and that it would not in all the circumstances be contrary to the interests of justice to conduct the hearing in his or her absence.

Procedure at hearing

69. The Board will ensure, in so far as is practicable, that hearings are conducted as informally as is possible having regard to all the circumstances.
70. An application will be heard before a sitting of the Board consisting of a chairperson and at least one other member of the Board. Subject to the provisions of the Act and to any Regulations made by the Minister, the procedure to be followed at any particular hearing will be a matter for the Board members conducting that hearing. A written record will be made of the proceedings at the hearing.
71. All hearings will be in private. The Board may in exceptional circumstances permit a close relative of the applicant or other appropriate person to be present at the hearing. Any such permission will be subject to a written undertaking that the identity of the applicant will not be disclosed without his or her consent and that no evidence or material adduced at the hearing will be disclosed in any way.
72. Subject to the provisions of the Act and of any regulations made by the Minister, the Board is entitled to determine the manner in which evidence in relation to any matter may be given. The Board will not necessarily be bound by the formal rules of evidence which apply in civil proceedings; but any person giving oral evidence to the Board at a hearing will be required to do so on oath or affirmation.
73. For the purposes of determining an application for redress, the Board may make provision for the taking of evidence on commission in any case where –
- (i) the applicant or a person who is to give evidence on behalf of the applicant, or

- (ii) a relevant person or a person who is to give evidence on behalf of a relevant person,

is unable for a reason deemed sufficient by the Board to attend the hearing of the application. Where evidence is taken on commission, an applicant and a relevant person will have the same right of cross-examination as they have at a hearing of the application.

Evidence and submissions by or on behalf of the applicant

- 74. An applicant may give oral evidence at a hearing in support of his or her application. Where an applicant has provided written evidence in support of his or her application, the Board may require him or her to give oral evidence on any matter relevant to the application. The Board may hear any other oral evidence for or on behalf of the applicant which it considers appropriate.
- 75. Where an application is made on behalf of a person who has died since 11 May 1999, the Board will permit the spouse or children of the deceased person to give oral evidence in respect of the identity of the deceased, his or her residence in an institution and the abuse suffered by him or her.
- 76. An applicant and any person giving evidence on his or her behalf may be asked questions by the Board, by counsel or solicitor for the Board or, subject to the provisions of section 11(8) of the Act, by the legal representative of a relevant person.
- 77. The Board may hear counsel or solicitor for an applicant in respect of any matter before it.

Evidence and submissions by or on behalf of a relevant person

- 78. On application by a relevant person, the Board may allow that person or a person giving evidence on behalf of that person to give oral evidence in respect of an application. A relevant person may, in person or through a legal representative, and with the consent of the Board, cross-examine the applicant and any person giving evidence on the applicant's behalf but, as provided by section 11(8)(c) of the Act, only for the purposes of -
 - (a) correcting any mistake of fact or misstatement relating to or affecting the relevant person made in the application,
 - (b) defending the relevant person in relation to any allegation or defamatory or untrue statement, made in the application, or
 - (c) protecting and vindicating the personal and other rights of the relevant person.
- 79. The Board will normally consent to the giving of oral evidence and such cross-examination where the relevant person has provided written evidence relating to the application within two months of receipt of the notice informing

him or her that an application has been made; but, save in exceptional circumstances to be determined by the Board, a relevant person will not be allowed to give oral evidence, nor to cross-examine any person, regarding matters not detailed in that written evidence.

- 80.** A relevant person may request the Review Committee to review any refusal by the Board to allow him or her to give evidence, or to conduct a cross-examination, at a hearing.
- 81.** A relevant person or a person giving evidence on behalf of a relevant person may be asked questions by the Board and by counsel or solicitor for the Board. A relevant person or a person giving evidence on his or her behalf may also be cross-examined by the applicant, in person or through a legal representative, but only with the consent of the Board. The Board will consent to such cross-examination where it considers that it is necessary or expedient in the interests of justice.

Evidence adduced by counsel or solicitor for the Board

- 82.** The Board may seek the assistance of counsel or solicitor appointed by the Board in relation to any matter which it regards as necessary. In particular, counsel or solicitor for the Board may call such expert witnesses to give evidence at a hearing as the Board may require.

Inadmissibility of evidence in civil or criminal proceedings

- 83.** A statement or admission –
- (a) made by a person before the Board, or
 - (b) made by a person in a document prepared for the Board for the purposes of assessing an application and sent to the Board, a member of the Board or to a member of staff or medical adviser of the Board,

shall not be admissible as evidence against that person, or against any other person who may be liable for the acts or omissions of that person, in any criminal or civil proceedings in a court or other tribunal.

Preliminary decision

- 84.** The Board will make a preliminary decision as to whether an applicant is entitled to an award, having regard to the matters set out in section 10(4) of the Act and, where appropriate, any matter arising out of section 11 (which deals with the appointment of medical advisers, the Board's own counsel, witnesses called by the Board's counsel and the evidence of relevant persons).
- 85.** Where there is a conflict between the evidence given by the applicant and the evidence given by a relevant person which cannot be resolved to the satisfaction of the Board, the Board will request its medical advisers to prepare a report on the injuries received by the applicant as a result of the abuse. This

report is to be prepared having regard to the matters listed in section 10(12) of the Act. The Board, having considered this report, will make a preliminary decision as to whether the applicant is entitled to an award.

- 86.** The making of an award to an applicant, notwithstanding a conflict between the evidence given by the applicant and a relevant person, shall not constitute a finding of fact relating to fault or negligence on the part of the relevant person.

Report by Board's medical advisers

- 87.** Where it has made a preliminary decision that an applicant is entitled to an award, the Board will request its medical advisers to prepare a report on the injuries received by the applicant as a result of abuse. Where the Board considers it appropriate, the Board may require that such report shall have regard to any matter arising out of the oral evidence given by the applicant.

- 88.** When preparing this report, the medical adviser must have regard to –

- (a) The medical reports submitted by the applicant;
- (b) The evidence provided on behalf of the applicant by his or her medical advisers;
- (c) The other evidence given by the applicant;
- (d) The matters specified in section 7(1)(c) of the Act, namely, that the applicant was injured while resident in an institution and that injury is consistent with any abuse that is alleged to have occurred while so resident, and
- (e) Any requirement of the Board that the adviser's report shall have regard to any matter arising out of the oral evidence given by the applicant.

The medical adviser may, where he or she considers it appropriate, carry out an assessment of the applicant and such assessment may include conducting an interview with the applicant and his or her medical advisers

- 89.** Where it considers it appropriate, the Board may hear the oral evidence of the applicant and his or her medical or other advisers in respect of the report made by the Board's medical advisers.

Determination of application

- 90.** When determining an award, the Board will have regard to –

- (a) the evidence adduced at a hearing, if any,
- (b) the Regulations made by the Minister concerning the assessment of the redress award, and
- (c) the report prepared by the Board's medical advisers.

The Board will not address, or make a finding of fact relating to, any issue of fault or negligence arising out of evidence given in an application, and an

award made under the Act shall not be construed as a finding of fact that a person who is referred to in an application carried out the acts complained of in the application.

PAYMENT OF REDRESS

Interim awards

- 91.** The Board may make an interim award not exceeding •10,000 where –
- (a) it makes a preliminary decision that the applicant is entitled to an award;
 - (b) it is satisfied that it is probable, having regard to all the circumstances, that an award equal to or greater than the amount of the interim award will be made in respect of the applicant, and
 - (c) it is of the opinion that, having regard to the age or infirmity of the applicant, the making of an interim award is appropriate in the circumstances.

The amount of any such interim award will be deducted from the final award made by the Board

Notification of award

- 92.** The Board will, as soon as is practicable, notify the applicant and his or her legal representative in writing of the award. The Board will at the same time notify the Minister of the award for the purposes of section 13(13) of the Act.

Lump sum payment of award

- 93.** Payment of redress will normally take the form of a single payment of the total award to the applicant or, where he or she has died, to his or her personal representative. But there are two circumstances in which an award may be paid in instalments or in some other way.
- (a) Where an applicant does not wish to receive the entire amount of an award in a single payment, the Board, having heard the applicant or a submission on behalf of the applicant, may in its absolute discretion direct that the award be paid to the applicant in instalments.
 - (b) Where the Board, having heard submissions by or on behalf of the applicant and from such other person as the Board considers appropriate, is of the opinion that the applicant is incapable of managing any moneys received under an award it will direct that the award be paid to the applicant in instalments or in any other manner that is appropriate having regard to the circumstances of the applicant.

The applicant may apply to the Review Committee for a review of any such direction.

Advice on financial management of award

- 94.** The Board will establish such procedures as it considers appropriate through which an applicant who has received an award may be given advice as to financial management of the award.

Death of applicant

- 95.** Where an award is made in respect of an application on behalf of –
- (a) a person who died after 11 May 1999 before making an application, or
 - (b) a person who died after making an application but before the determination of that application by the Board,

the Board will direct that the award be paid to the personal representative of the deceased, as defined in the Succession Act 1965. Accordingly, where the deceased person made a will, the award will be paid to the executor of the will; where the deceased did not make a will, the award will be paid to the administrator of his or her estate. In either case the Board will direct that the personal representative treats the award as if it had been paid to the deceased immediately prior to his or her death.

Income tax

- 96.** For the purposes of the Income Tax Acts, income consisting of a redress award shall be disregarded for the purposes of income tax assessment, and any payment in respect of an award shall be treated in all respects as if it were a payment made as a result of a civil action for damages in respect of personal injury.

Acceptance or rejection of award

- 97.** Within one month from the date of receiving notice of the award, an applicant may –
- (a) accept or reject the award made by the Board to him or her, or
 - (b) submit the award to the Review Committee for a review of the amount of the award made by the Board.

If an applicant does not accept, reject or submit for review the award made to him or her within one month from the date of receiving notice of the award, he or she will be deemed to have rejected the award.

Acceptance of award by applicant

98. Where an applicant accepts an award, he or she will be required to agree in writing -
- (a) to waive any right of action arising out of the same, or substantially the same, acts complained of in the application which he or she may otherwise have had against a public body or a person who has made a contribution, under section 23(5) of the Act, to the special account to pay awards maintained by the Minister for Finance, and
 - (b) to discontinue any proceedings, instituted by him or her against such public body or such person, that arise out of the same, or substantially the same, acts complained of in the application.

An award will not be paid to an applicant unless he or she has complied with this requirement.

Rejection of award by applicant

99. Where an applicant does not accept an award within the time and in the manner provided by the Act, and proceeds with a civil action arising out of the same, or substantially the same, acts complained of in the application, the Minister, a public body or any other party will not in such proceedings rely for the purposes of the Statute of Limitations on the period between the date of the application to the Board and the date on which proceedings before the Board (or the Review Committee, as the case may be) were terminated.

REJECTION OF APPLICATION BY THE BOARD

100. The Act requires an applicant to establish to the satisfaction of the Board –
- (a) his or her identity;
 - (b) that he or she was resident in an institution during his or her childhood, and
 - (c) that he or she was injured while so resident and that injury is consistent with any abuse that is alleged to have occurred while so resident.

Where the Board decides that one or more of these matters have not been established to its satisfaction, it will notify the applicant as soon as practicable of its decision and state the reasons for so deciding. The applicant may submit that decision to the Review Committee for review.

RIGHT TO APPLY TO THE REVIEW COMMITTEE

The applicant's right to apply to the Review Committee

- 101.** An applicant may submit for review by the Residential Institutions Redress Review Committee:
- (a) the amount of an award made by the Board,
 - (b) a direction by the Board under section 13(8)(b) of the Act that the award is to be paid in instalments or otherwise than by way of a lump sum to an applicant incapable of managing his or her own affairs, and
 - (c) a decision by the Board that one or more of the matters set out in paragraph 100 have not been established to its satisfaction.

Any submission to the Review Committee must be made within one month from the date of receiving notice of the award, direction or decision of the Board. The Review Committee is wholly independent of the Board, and may reconsider the application and any further information provided by the applicant. On a review of the amount of the award made by the Board, the Review Committee may accept that award or increase or reduce it.

- 102.** The Board will send the applicant a copy of the appropriate form for submitting the case to the Review Committee when it notifies the applicant of its award, direction or decision as to the matters listed in paragraph 101.

The Minister's right to apply to the Review Committee

- 103.** The Minister may, within one month of the making of an award by the Board by way of settlement or following a hearing, submit the amount of that award for review by the Review Committee.

Appendix I

Residential institutions listed in the Schedule to the Act

An Grianán Training Centre, Grace Park Road, Dublin 9
Artane Industrial School for Senior Boys, Dublin 5
Baltimore Fishery School for Senior Boys, Baltimore, Co. Cork
Benada Abbey Industrial School for Girls, Ballymote, Co. Sligo
Carriglea Park Industrial School for Senior Boys, Dun Laoghaire, Co. Dublin
Cottage Home, Tivoli Road, Dun Laoghaire, Co. Dublin
Don Bosco House, Gardiner Street, Dublin 1
Family Group Home, Geevagh, Co. Sligo
Family Group Home, Letterkenny, Co. Donegal
Family Group Home, Wexford
Kirwan House, Ranelagh, Dublin 6
Madonna House, Blackrock, Co. Dublin
Madonna House, Merrion Road, Dublin 4
Martanna House Hostel, Grace Park Road, Dublin 9
Miss Carr's Children's Home, 5 Northbrook Road, Dublin 6
Mount Carmel Industrial School for Girls, Moate, Co. Westmeath
Nazareth House, Sligo
Orphanage Schools, Convent of Mercy, Kells, Co. Meath
Our Boy's Home, 95 Monkstown Road, Dun Laoghaire, Co. Dublin
Our Lady of Mercy Industrial School for Girls, Kinsale, Co. Cork
Our Lady of Succour Industrial School, Newtownforbes, Co. Longford
Our Lady's Industrial School for Girls, Ennis, Co. Clare
Pembroke Alms (Nazareth House) Industrial School for Girls, Tralee, Co. Kerry
CPI Marino Special School, Bray, Co. Wicklow
Cork University Hospital School
Harcourt Street Hospital, Dublin 2
Holy Family School for Moderate Learning Disability, Charleville, Co. Cork
Our Lady of Good Counsel, Lota, Glanmire, Co. Cork
Our Lady of Lourdes Hospital, Dun Laoghaire, Co. Dublin
Our Lady's Hospital for Sick Children, Crumlin, Dublin 12
Sacred Heart Home, Drumcondra, Dublin 9
School of the Divine Child, Lavanagh, Ballintemple, Cork
School of the Holy Spirit, Seville Lodge, Kilkenny, Co. Kilkenny
Scoil Ard Mhuire, Lusk, Co Dublin
Scoil Eanna, School of the Angels, Montenotte, Cork
Scoil Triest, Lota, Glanmire, Co. Cork
St. Martin's Orphanage, Waterford
St. Clare's Orphanage, Harold's Cross, Dublin 6
St. David's, Lota, Glanmire, Co. Cork
St. Gabriel's School, Curraheen Road, Cork
St. Joseph's Orphanage, Tivoli Road, Dun Laoghaire, Co. Dublin
St. Joseph's Orphanage, Bundoran, Co. Donegal
St. Joseph's Orthopaedic Hospital for Children, Coole, Co. Westmeath
St. Joseph's School for the Visually Impaired, Drumcondra, Dublin 9
St. Kevin's Reformatory, Glencree, Co. Wicklow
St. Martha's Industrial School, Monaghan
St. Martha's Industrial School, Merrion, Dublin 4
St. Mary's Orthopaedic Hospital, Baldoyle, Dublin 13
St. Mary's Orthopaedic Hospital, Cappagh, Dublin 11
St. Mary's School for Visually Impaired Girls, Merrion, Dublin
St. Vincent's Centre for Persons with Intellectual Disability, Lisnagry, Limerick

St. Vincent's Orphanage, North William St, Dublin 9
 St. Aidan's Industrial School for Girls, Newross, Co. Wexford
 St. Aloysius' Industrial School for Girls, Clonakilty, Co. Cork
 St. Ann's Industrial School for Girls and Junior Boys, Renmore, Lenaboy, Co. Galway
 St. Anne's Industrial School for Girls, Booterstown, Co. Dublin
 St. Anne's Reformatory School for Girls, Kilmacud, Co. Dublin
 St. Anne's, Sean Ross Abbey, Roscrea, Co. Tipperary
 St. Augustine's Industrial School for Girls, Templemore, Co. Tipperary
 St. Augustine's, Obelisk Park, Carysfort Avenue, Blackrock, Co. Dublin
 St. Bernadette's, Bonnington, Montenotte, Cork
 St. Bernard's Industrial School for Girls, Fethard, Dundrum, Co. Tipperary
 St. Bridgid's Industrial School for Girls, Loughrea, Co. Galway
 St. Cecilia's, Cregg House, Sligo
 St. Clare's Orphanage, Harold's Cross, Dublin 6
 St. Coleman's Industrial School for Girls, CobhlRushbrook, Co. Cork
 St. Columba's Industrial School for Girls, Westport, Co. Mayo
 St. Conleth's Reformatory School for Boys, Daingean, Co. Offaly
 St. Dominick's Industrial School for Girls, Waterford
 St. Finbarr's Industrial School for Girls, Sundays Well, Marymount, Cork
 St. Francis Xavier's Industrial School for Girls and Junior Boys, Ballaghadereen, Co.
 Roscommon
 St. Francis' & St Mary of the Angels, Beaufort, Killarney, Co. Kerry
 St. Francis' Industrial School for Girls, Cashel, Co. Tipperary
 St. George's Industrial School for Girls, Limerick
 St. John's Industrial School for Girls, Birr, Co. Offaly
 St. Joseph's Industrial School for Boys, Passage West, Co. Cork
 St. Joseph's Industrial School for Boys, Tralee, Co. Kerry
 St. Joseph's Industrial School for Girls and Junior Boys, Ballinasloe, Co. Galway
 St. Joseph's Industrial School for Girls and Junior Boys, Clifden, Co. Gaiway
 St. Joseph's Industrial School for Girls and Junior Boys, Liosomoine, Killarney, Co. Kerry
 St. Joseph's Industrial School for Girls, Cavan
 St. Joseph's Industrial School for Girls, Dundalk, Co. Louth
 St. Joseph's Industrial School for Girls, Kilkenny
 St. Joseph's Industrial School for Girls, Mallow, Co. Cork
 St. Joseph's Industrial School for Girls, Summerhill, Athlone, Co. Westmeath
 St. Joseph's Industrial School for Girls, Whitehall, Drumcondra, Dublin 9
 St. Joseph's Industrial School for Senior Boys, Ferryhouse, Clonmel, Co. Tipperary
 St. Joseph's Industrial School for Senior Boys, Glin, Co. Limerick
 St. Joseph's Industrial School for Senior Boys, Greenmount, Cork
 St. Joseph's Industrial School for Senior Boys, Letterfrack, Co. Galway
 St. Joseph's Industrial School for Senior Boys, SaIthill, Co. Galway
 St. Joseph's Orphanage, Tivoli Road, Dun Laoghaire
 St. Joseph's Reformatory School for Girls, Limerick
 St. Joseph's School for Hearing Impaired Boys, Cabra, Dublin 7
 St. Joseph's School for the Visually Handicapped, Drumcondra, Dublin 9
 St. Kyran's Industrial School for Junior Boys, Rathdrum, Co. Wicklow
 St. Laurence's Industrial School for Girls, Sligo
 St. Laurence's Industrial School, Finglas, Dublin 11
 St. Martha's Industrial School for Girls, Bundoran, Co. Donegal
 St. Mary's Industrial School, Lakelands, Sandymount, Dublin 4
 St. Mary's Orthopaedic Hospital, Baldoyle, Dublin 13
 St. Mary's Orthopaedic Hospital, Cappagh, Finglas, Dublin 11
 St. Mary's School for Hearing Impaired Girls, Cabra, Dublin 7
 St. Mary's, Delvin, Co. Westmeath
 St. Mary's, Drumcar, Dunleer, Co. Louth

St. Mary's, Rochestown, Cork
St. Michael's Industrial School for Girls, Wexford
St. Michael's Industrial School for Junior boys, Cappoquin, Co. Waterford
St. Michael's, Glenmaroon, Chapelizod, Dublin 20
St. Mura's Orphanage, Fahan, Co. Donegal
St. Patrick's Industrial School for Boys, Upton, Cork
St. Patrick's Industrial School for Junior Boys, Kilkenny
St. Paul's Hospital, Beaumont, Dublin 9
St. Paul's, Montenotte, Cork
St. Saviour's Orphanage, Lr. Dominick Street, Dublin 1
St. Vincent's (House of Charity) Industrial School for Junior Boys, Drogheda, Co. Louth
St. Vincent's Industrial School for Girls, Limerick
St. Vincent's Industrial School, Goldenbridge, Inchicore, Dublin 8
St. Vincent's Orphanage, Glasnevin, Dublin 9
St. Vincent's, Navan Road, Dublin 7
Stewart's Hospital, Palmerstown, Dublin 20
Tabor House, Dublin
Temple Street Hospital, Dublin 1
The Bird's Nest Home, 19 York Road, Dun Laoghaire, Co. Dublin
The Los Angeles Homes, Dublin
The O'Brien Institute, Malahide Road, Dublin
Trudder House, Newtownmountkennedy, Co. Wicklow
Warrenstown House, Corduff Road, Blanchardstown, Dublin 15

Appendix II

Regulations made by the Minister under the Act

Residential Institutions Redress Act, 2002 (Section 17) Regulations 2002.

Residential Institutions Redress Act, 2002 (Section 33) Regulations 2002.

Residential Institutions Redress Act, 2002 (Miscellaneous Provisions) Regulations 2002.
