

**Report pursuant to
section 3(14) of the
Northern Ireland
(Executive Formation etc)
Act 2019 - Historical
Institutional Abuse**

Presented to Parliament pursuant section 3(14) of the Northern
Ireland (Executive Formation etc) Act 2019



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Report pursuant to section 3(14) of the Northern Ireland (Executive Formation etc) Act 2019 - Historical Institutional Abuse

Whilst this is a devolved matter, this report is based on information provided by both the Executive Office and the Northern Ireland Office.

Section 3 of the Northern Ireland (Executive Formation etc) Act 2019 requires the Secretary of State to publish and lay before both Houses of Parliament a report on progress made towards forming an Executive and other matters.

This report is made in accordance with section 3(14) of that Act which states:

Before making a report under subsection (1), the Secretary of State must publish a report on or before 4 September 2019 on progress made towards implementing the recommendations made by the Report of the Inquiry into Historical Institutional Abuse in Northern Ireland between 1922 and 1995, including the establishment of a publicly funded compensation scheme under an HIA Redress Board, distinct from the Northern Ireland Criminal Injuries Compensation Scheme 2009.

The UK Government is determined to see progress so that victims of this dreadful childhood abuse can receive the redress they have so long awaited. The NI parties have constructively engaged and are unanimously in support of measures to bring redress to victims. The Government welcomes the support voiced by Parliamentarians across all parties and both Houses to progress this issue.

As a matter of priority, the Secretary of State for Northern Ireland has met with key stakeholders on this acute and sensitive issue. He has discussed next steps, including the importance of making progress on this legislation with all the representative victims and survivors groups, and he has committed to them that he will continue to do so regularly as he seeks to make progress on redress for historical institutional abuse. The Secretary of State has made clear his desire to bring forward legislation at the earliest possible opportunity.

In the absence of the Executive, the Northern Ireland Office (NIO) has been working with The Executive Office (TEO) of the Northern Ireland Civil Service to develop and finalise the legislation required to deliver the key recommendations of the Inquiry and as a result the

following report, whilst relating to matters that are devolved, is a joint report made by TEO and NIO.

Background

The Northern Ireland Executive established an inquiry and investigation into historical institutional abuse. This examined if there were systemic failings by institutions or the state in their duties towards those children in their care between the years 1922 -1995. Sir Anthony Hart, who chaired the Historical Institutional Abuse Inquiry (HIAI), published the Inquiry Report and Findings on 20 January 2017¹.

The Inquiry set out in its findings stating that it had:

‘...found evidence of systemic failings to a greater or lesser degree in the majority of the institutions and homes it investigated. There was evidence of sexual, physical and emotional abuse, neglect and unacceptable practices across the institutions and homes examined. Not all types of abuse occurred in all homes and there were some institutions where some forms of abuse were more prevalent than others. The Inquiry also identified failings where institutions sought to protect their reputations and individuals against whom allegations were made, by failing to take any action at all, failing to report matters to or deliberately misleading the appropriate authorities and moving those against whom allegations were made to other locations. This enabled some to continue perpetrating abuse against children. Failings were also identified in the structure, governance, staffing levels, staff training, funding and strategic oversight of institutions. The Inquiry found that those institutions that sent young children to Australia were wrong to do so and there were failures to ensure the children were being sent to suitable homes, that contact was maintained and that truthful information was provided to parents as to their children’s whereabouts.’²

The Inquiry recommended, inter alia, a Commissioner for Survivors of Institutional Childhood Abuse (COSICA) and a publicly-funded financial compensation scheme for victims and survivors.

¹ The full HIAI Inquiry Report is available at <www.hia inquiry.org/historical-institutional-abuse-inquiry-report-chapters>.

² See HIAI press release for a very brief summary of key findings and recommendations: <www.hia inquiry.org/sites/hia inquiry/files/media-files/Press%20Release%20-%20Publication%20of%20HIA%20Inquiry%20Report%20-%202020-01-17.pdf>.

The terms of reference for the HIAI state that it is for the NI Executive to decide whether to accept the recommendations. The Report recommended that the NI Executive create a publicly-funded compensation scheme. It also recommended that appropriate contributions towards the cost of the HIA Redress Board and any specialist services recommended by the Inquiry be sought from any voluntary body found by the Inquiry to have been guilty of systemic failings.

The Executive Office made a statement when the Report was published, noting that in line with the legislation, consideration of the Report and its recommendations is a matter for the Executive, and that it would be its intention to put it to the Executive at the earliest opportunity. The First Minister and deputy First Minister are also required to lay the Report before the NI Assembly. The collapse of the NI Executive in January 2017 has meant there has not yet been an opportunity to complete the latter two steps.

The inquiry report is available online³. The following sets out the progress made in implementation of the Inquiry Report recommendations. In the absence of an NI Executive, the Secretary of State and his officials are working closely with the Northern Ireland Civil Service to monitor progress on this matter. The Secretary of State is wholeheartedly committed to introducing legislation that delivers the COSICA and Redress Board as soon as possible so that the elements of the Inquiry recommendations that require a statutory footing can be fully implemented by the NICS.

A public apology

It was recommended that the Northern Ireland Executive and those responsible for each of the institutions where the Inquiry found systemic failings should make a public apology – this should be done on a single occasion at a suitable venue.

There is no doubt that victims of abuse have shown incredible dignity throughout the Inquiry and that an apology is long overdue. However, the lack of a NI Executive at present means that the implementation of this has been delayed.

³ <https://www.hiainquiry.org/historical-institutional-abuse-inquiry-report-chapters>

A physical memorial

The Inquiry recommend a suitable physical memorial should be erected in Parliament Buildings or in the grounds of the Stormont Estate. Implementation of this recommendation would require a decision by a restored NI Executive.

Dedicated 10 year specialist facilities for general counselling and practical assistance

The Inquiry recommended funding for a period of 10 years, reviewed after 5 years, to provide dedicated specialist support services for victims of abuse. The recently appointed HIA Interim Advocate is engaging with HIA victims and survivors to establish needs and expectations for support services going forward. This will inform future recommendations to the Northern Ireland Executive.

Practical advice and support in areas such as benefits, housing, education, training, accessing and searching personal records, employment and finance, has been available to HIA victims and survivors since 2013 through a contract with Advice NI. TEO also provides a drop-in centre and a small grant scheme.

Commissioner, Advisory Panel, Redress Scheme and Redress Board

On 13 December 2017 the Head of the Northern Ireland Civil Service, David Sterling, wrote to the Northern Ireland Office, and while noting that decisions would ultimately be for Northern Ireland Ministers, he set out proposals for preparatory work, including preparing draft legislation. The Executive Office subsequently began work on preparing the draft Bills in early 2018. This draft legislation was developed on the basis of the recommendations made in the Inquiry Report in relation to establishing a:

- Commissioner for Survivors of Institutional Childhood Abuse (COSICA);
- Redress Board, which would receive, process and make payments of financial compensation; and
- Compensation scheme

The drafting of the legislation was completed in the autumn of 2018.

TEO launched a public consultation seeking views on the draft legislation required to implement the above recommendations in the Inquiry Report. The consultation opened on 19 November 2018 and closed on 10 March 2019. The consultation period was extended by four weeks at the request of some of the victims' and survivors' groups. In total, 562 responses were received to the consultation. TEO analysed all of the consultation responses received and published a report on 13 May 2019. The report is available online⁴.

Following the public consultation, David Sterling wrote to the then Secretary of State for Northern Ireland Secretary of State for Northern Ireland, Karen Bradley, on 2 May 2019 informing her that there were a number of issues arising from the consultation that required ministerial decision.

The Secretary of State for Northern Ireland asked the NI political parties to review these issues and seek a consensus on a way forward. Secretary of State for Northern Ireland met with each of the party leaders on 29 May 2019 to encourage progress in reaching a consensus. The parties wrote to Secretary of State for Northern Ireland on 11 June 2019 with their recommendations. The Executive Office and the Office of Legislative Counsel redrafted the legislation in light of the parties' recommendations.

On 2 July 2019, David Sterling appointed an interim advocate for victims and survivors of historical institutional abuse. The interim advocate requested a change to the draft legislation and the draft legislation was amended by The Executive Office to address this. David Sterling wrote to the Secretary of State for Northern Ireland with the redrafted legislation on 18 July 2019.

The Secretary of State for Northern Ireland wrote to the parties on 23 July 2019 noting that as part of the redraft process, TEO officials had identified a legal issue regarding the composition of the Redress Board but that this had now been addressed in the draft legislation. The issue related to the need for an appeal mechanism within the awards determination process. The Secretary of State for Northern Ireland also sought confirmation that it is their joint view that the amendment proposed by the Interim Advocate to provide for initial payments in complex cases or where a final determination may take time, should remain in the draft Bill. On 25 July 2019 the Northern Ireland party leaders wrote confirming their support and contentment with the interim advocate's proposal.

⁴ <https://www.executiveoffice-ni.gov.uk/publications/historical-institutional-abuse-consultation-report-responses>

The UK Government made a commitment in July 2019 to introduce legislation in the UK Parliament by the end of 2019, in the absence of a restored NI Executive and taking an approach that respects the spirit of the devolution settlement. This commitment is on the basis that all costs are met from within the Northern Ireland Block Grant, and that the Assembly will take forward the Bill if it is restored before the legislation is introduced.

The NIO are working closely with TEO and Office of the Parliamentary Counsel to prepare the documents necessary to introduce legislation in the UK Parliament in the absence of a restored NI Executive.

Contributions from institutions

The Inquiry Report recommended that any voluntary institution found by the Inquiry to have been guilty of systemic failings should be asked to make an appropriate financial contribution to the overall cost of the HIA Redress Board and any specialist support services recommended by the Inquiry. It suggested that if agreement on contributions to the cost of compensation cannot be reached, the Northern Ireland Executive and the institution concerned submit all issues to mediation. If mediation were then to fail it proposed that all remaining issues be dealt with by the Northern Ireland Executive and the relevant institutions agreeing to submit to binding arbitration. This is a devolved matter and as such the implementation of this recommendation is a matter for a restored Northern Ireland Executive.

Whilst it is recognised that this is an important issue, it must not delay progress in establishing the redress scheme for victims who have already waited years since the Inquiry Report was published.

In order to progress this issue TEO have made initial contact with the bodies concerned. It has also undertaken research into how the issue has been handled elsewhere. TEO will use this to support the formulation of advice to incoming NI Ministers, which is being prepared as part of the overall implementation work plan for the redress scheme.

Interim Advocate

On 2 July 2019, David Sterling appointed an interim advocate for victims and survivors of historical institutional abuse. Brendan McAllister will be in post until the statutory COSICA has been appointed.

The interim advocate is independent of government and will act as a voice for victims and survivors. He will:

- advocate on behalf of victims and survivors during the passage of legislative proposals;
- work with service providers to ensure the needs of victims and survivors are known and emphasised;
- reach out to victims and survivors in other jurisdictions; and
- be a channel of communications for the sector

The interim advocate officially took up his role on 12 August 2019, and had an early meeting with the NIO where the department set out its determination to support the establishment of the redress board, and to work closely with the interim advocate in his new role.

Next Steps

The Secretary of State has worked closely with the NICS to expedite the preparation of the legislation and its associated Bill products over the summer. The Secretary of State has set out to victims groups that he will be pressing to secure introduction of this legislation as early as possible, to meet the UK Government's commitment to them.

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