

Response to the consultation: A Legal Framework for a Troubles-related incident Victims Payment Scheme

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This brief response endorses a victim-centred, trauma-informed approach to the delivery of the Victims Payment Scheme. The recommendations are based on research on Troubles-related trauma and the needs of victims of the Troubles, particularly the NI Study of Health and Stress, which revealed the rates of individuals with Troubles-related mental illness here and the impact on their role and functioning. The key research references are listed below. The inclusion of those with psychological injuries in the scheme is to be commended, and the comments below relate to the identification of those eligible in this category and specific needs of this group. I have therefore not commented on questions regarding other issues that are outwith my area of expertise.

Question 1: Do you agree with the broad proposed purpose of the scheme?

Yes. The notion of permanent disablement is difficult to apply to psychological injuries, as indeed many are treatable. However, many of those with mental illness will not have disclosed their symptoms or sought help, as evidenced by the NI Study of Health and Stress. This is because avoidance is a feature of trauma-related mental illness and also because of the nature of the conflict and the climate of fear at the time. Nonetheless, psychological injuries resulting from the Troubles will have impacted individuals' abilities to accrue an occupational pension and therefore it is appropriate that this category is included.

Question 2: Do you agree with the underpinning principles?

Yes. A "Victim-Centred" approach should mean that the process is overseen by an independent panel of experts, including experts by experience, who provide guidance regarding the operationalisation and administration of the programme, to ensure that re-traumatisation is avoided, and to ensure that victims' needs are front and centre.

Question 3: Does the proposed approach to payments - including scaling awards in proportion to the severity of injury, level of awards, and adopting degrees of disablement methodology - seem fair and proportionate?

Yes. However, it remains unclear whether individuals with comorbid physical and psychological injuries will receive payment for each separately. In addition, the allocation of a specific price to a psychological or physical injury may cause distress if it is felt that it fails to take into consideration the extent of the impact on the person's life. Again, steps should be taken to ensure that victims are fully aware of the limitations of the scheme in this regard, and that the scheme is managed by trained staff, who themselves receive adequate support to process the information that they will be exposed to.

Question 4: Based on the examples set out, do you consider 14-20% degree of disablement to be an appropriate entry point for the ongoing support to be provided through the scheme?

No. It would be more appropriate to ensure that all those affected have access to the payments.

Question 10: Do you agree with the proposed approach to who will benefit from the scheme?

No. The concept of primary and secondary victimhood is not appropriate when we are referring to psychological injury. The scheme purports to use the established diagnostic criteria for psychiatric illness to assess psychological injury, however the proposals do not appear to adhere to these in their inclusion criteria. PTSD is an appropriate diagnostic category to use as an example, since the illness is linked to a specific traumatic event, which can (theoretically at least) be categorised as a Troubles-related event. Many would argue that it is the only psychological injury that can be reliably related to particular events because of the nature of the symptoms (flashbacks and nightmares). The traumatic events that can lead to PTSD include the sudden death or serious injury to a loved one, and also seeing someone dead or seriously injured. Where these types of Troubles-related traumatic events have led to PTSD, the victim should be eligible for this scheme, regardless of their location when the incident that caused the death or injury to the other person occurred. To be clear, a parent who develops PTSD after seeing body parts of their child, who died in a Troubles related incident, should be eligible for the scheme. In keeping with the psychiatric criteria for PTSD those who were not present at the time of an incident that subsequently led to the disorder should also receive these payments. This would be considered “fair and proportionate”.

Question 12: Do you agree with the proposed approach to evidence and assessment?

No. The NI Study of Health and Stress revealed that many of those with the worst mental illness as a result of Troubles related trauma exposure did not ask for help. In addition, one of the clusters of the symptoms of PTSD includes avoidance behaviour, and many of those affected avoided discussing traumatic events out of a fear that this will trigger a flashback or as a result of the culture of fear at the time. In many cases medical evidence regarding the symptoms will simply not exist and in these cases assessment will need to be undertaken by a highly trained mental health trauma specialist, who will be sensitive to victims’ needs and the potential for the process of assessment to cause additional harm.

Question 15: Do you support the proposed support arrangements?

The support arrangements lack detail at present. As outlined above, the development of the support structures and integration with current structures, should be overseen by an independent body of mental health experts, victims and their advocates.

Key references

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