



24 June 2026

Information Note

1. Following the judgment of Scofield J in *The Matter of an Application by Peter McCabe and Jeanitta McCabe for Judicial Review* [2026] NIKB 24 delivered on 27 May 2026, Board members must consider the judgment in its entirety and note its key points, as summarised below. The judgment focuses on the statutory definition of a Troubles-related incident and clarifies the approach to incidents arising from vigilante-style paramilitary attacks.
2. “Troubles-related incident” is defined by section 10(11) of the Northern Ireland (Executive Formation etc) Act 2019 as “*an incident involving an act of violence or force carried out ... for a reason related to the constitutional status of Northern Ireland or to political or sectarian hostility between people*” in Northern Ireland.
3. In the judgment, the phrase “statutory hallmarks” of the Troubles is used as shorthand to refer to the constitutional status of Northern Ireland and to political or sectarian hostility between people here (paragraph [54]).
4. When considering whether an incident meets the statutory definition of a Troubles-related incident, members must be satisfied that at least one material reason for the act of violence or force is a qualifying reason. The burden of proof rests with applicants to establish this on the balance of probabilities. The following should be noted:
 - There can be more than one reason for a vigilante-style paramilitary attack;
 - all potential reasons for the attack must be considered, including those which may be secondary but nonetheless material;
 - a qualifying reason does not need to be the sole, primary or dominant reason for the act;
 - considerations must not be confined to identifying a single “main” reason
5. If the connection between the relevant reason and the statutory hallmarks is so remote or strained that it cannot be said to be a material or operative reason for the act of violence/force, eligibility will plainly not be established (paragraph [67]).
6. However, provided there is a sufficient relationship between at least one *material* reason for the act of violence or force and the statutory hallmarks of the Troubles, this will suffice. This may be satisfied if at least one reason for the attack was the furtherance or facilitation of the paramilitary organisation’s operations which were more

obviously or directly related to the constitutional status of Northern Ireland, or to political or sectarian hostility between people in Northern Ireland. The requirement that a reason be “related to” the statutory hallmarks does not necessarily imply a particularly close connection (paragraphs [65]-[67] and [132]).

7. In respect of a vigilante-style paramilitary attack, a material reason may be sufficiently related to the statutory hallmarks to give rise to eligibility (paragraph [127]).
8. Members must consider whether a material reason for the attack also served a wider paramilitary or organisational purpose. A material reason may be to further or facilitate the organisation’s operations in a variety of ways as part of its campaign related to the constitutional status of Northern Ireland or political or sectarian hostility.
9. An incident may therefore meet the definition of a TRI provided the Board is satisfied on the balance of probabilities that at least one material or operative reason for the attack was related to the constitutional status of Northern Ireland or to political or sectarian hostility between people here. The degree of connection between the reason and those hallmarks need not be particularly close. It is possible that this may be satisfied if at least one reason for the attack was the furtherance or facilitation of the paramilitary organisation’s operations which were more obviously or directly related to those matters. (paragraph [132]). **The burden of proving any issue in relation to an application or appeal is on the applicant or, as the case may be, the appellant.**
10. There could also however be incidents undertaken by members of a proscribed organisation which, properly viewed, are not for a reason related to the hallmarks of the Troubles, or where this has not been established. Such cases might include the truly personal vendetta (paragraph [133]).
11. The existence of criminal or anti-social behaviour on the part of the victim does not preclude eligibility. This is separate and distinct from consideration under regulation 6, which may fall to be considered if a person is otherwise eligible for victims’ payments.
12. The exclusion under Regulation 6(1) is mandatory and caters for the situation where an individual is injured by their own hand (paragraph [72]), that is, it principally applies where the act of violence or force was being perpetrated or assisted by an applicant in some way (to the extent that they have been convicted of their involvement), rather than through the intervening act of a third party.
13. Regulation 6(2) involves an element of discretion on the part of the Board where conduct, which has been proven to the criminal standard, makes entitlement to victims’ payments inappropriate (paragraph [72]).
14. There is also a broader power, exercisable under regulation 6(3), to determine that a person is not entitled to victims’ payments where the exceptional circumstances of the

case make entitlement inappropriate. This permits a determination of ineligibility where, for instance, it would be an affront to the purposes of the Scheme for an individual to be compensated as a victim even where (it appears) the relevant concern is established by material evidence falling short of criminal convictions or “relevant” convictions as defined in the Regulations. The Secretary of State issued guidance in August 2020 under regulation 6(4) to which the Board and President must have regard under regulation 6(5) when making a determination under regulation 6(2) or (3) (paragraph [72]).

15. If the applicant had relevant convictions, or even exceptionally where there had been no relevant conviction, and the applicant’s behaviour was established to the Board’s or President’s satisfaction (as the case may be) to have been so poor as to render them an inappropriate recipient of public funding as a victim, they could be denied victims’ payments on that basis (paragraph [73]).
16. None of the discussion in paragraph [73] of the judgment is to suggest that an applicant should be deprived of eligibility because their treatment at the hands of a paramilitary grouping was in some way justified or warranted. However heinous an individual’s perceived or actual offending, the proper response is by way of due operation of law. Vigilante-style attacks are abhorrent to the rule of law. Any such assessment under regulation 6, therefore, would not be based on the premise that the applicant’s treatment was in any way deserved or approbated; rather, it would simply be based on the assessment that, by reason of their own conduct, the claimant was undeserving of compensation out of public funds under the terms of the Scheme (paragraph [75]).
17. Guidance Note (GN 04/21): “Defining a Troubles Related Incident” must not be read as suggesting that a decision-maker should seek to isolate a single reason for an attack (paragraph [124](a)).
18. The Information Note dated 23 November 2023 is withdrawn with immediate effect. Board members should instead have regard to the principles set out in this note and the judgment itself.
19. In all determinations, members should ensure that (where relevant):
 - the reasoning clearly identifies all material factors and potential reasons considered;
 - any conclusion as to the absence of a qualifying reason is explicitly stated and sufficiently justified/explained; and
 - the determination demonstrates that a multi-factorial assessment has been undertaken, rather than focusing on a single determinative reason.